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Friday
August 28, 1987

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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: September 29, at 9 a.m.
WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS: Janice Booker, 202-523-5239

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DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

7 CFR Part 6

Section 22 Dairy Import Quotas; Adjustment of Application Period for Import Licenses for Certain Dairy Products; Correction

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This final rule amends the regulations concerning the application period for certain import licenses.

EFFECTIVE DATE: July 17, 1987.

FOR FURTHER INFORMATION CONTACT: Phillip J. Christie, Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, Room 6616 South Building, Department of Agriculture, Washington, DC 20250; Telephone (202) 447-5270.

SUPPLEMENTARY INFORMATION: A notice of adjustment of the application period for certain import licenses was published in the **Federal Register** (52 FR 26937) on July 17, 1987. The supplementary information set forth in that notice is correct with respect to the application period for the 1988 quota year. However, the provision amending 7 CFR Part 6, Subpart-Section 22 Import Quotas which was also published with the Notice is inconsistent with the supplementary information in the Notice and with the agency's intention. Therefore, the Foreign Agricultural Service is publishing a corrected rule which amends 7 CFR Part 6, Subpart-Section 22 Import Quotas to provide that when the first day or days of the application period fall on a Saturday, Sunday, or Federal holiday, applications postmarked on these days and the immediately following workday will be treated the same in determining priority in the issuance of import licenses. The authority citation for 7 CFR Part 6, Subpart-Section 22 Import Quotas is also being amended to reflect the current citation to the statutory authority for the regulation.

This final rule has been reviewed under USDA procedures required by Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major' since implementation of the provisions of this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Furthermore, to the extent, if any, that the provisions of the Regulatory Flexibility Act (5 U.S.C. 601) apply to this rule, the Administrator, Foreign Agricultural Service, hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities since the change made by this rule is of a minor, technical nature and will have an insignificant economic impact, if any, regardless of the size of the applying firms.

This amendment to the regulations is being published as a final rule since the agency finds under 5 U.S.C. 553 that the general notice of proposed rulemaking procedure is impracticable and contrary to the public interest. It has been the agency's past practice to treat applications as this rule provides and the rule merely involves a technical change.

The effective date for this final rule is being made retroactive to July 17, 1987, since that was the date on which the notice and incorrect amendment to the regulations was published. The agency is setting forth the rule as it was correctly applied to the application period for the 1988 quota year as described in the supplementary information section of the notice.

List of Subjects in 7 CFR Part 6

Section 22, Import quotas, Dairy products.

Accordingly, 7 CFR Part 6, Subpart—Section 22 Import Quotas, is amended as follows:

PART 6—[AMENDED]

1. The authority citation for 7 CFR Part 6, Subpart—Section 22 Import Quotas, is revised to read as follows:

Authority: Sec. 3, Pub. L. 80-897, 62 Stat. 1248, as amended (7 U.S.C. 624); secs. 701, 703, Pub. L. 96-39, 93 Stat. 268, 272; Part 3 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202); sec. 501 Pub. L. 82-137, 65 Stat. 290, as amended (31 U.S.C. 9701).

2. Section 6.25 is amended by revising paragraph (b)(4) to read as follows:

§ 6.25 Eligibility.

* * * * *

(b) * * *

(4) Evidence and certification required to establish the nonhistorical eligibility of a person making application to receive a quota share for a given quota year shall not be approved by the Licensing Authority if postmarked before August 1 or later than November 1 of the year preceding the quota year for which the license to import is requested. Whenever August 1 falls on a Saturday, Sunday, Federal holiday, or other day which is not a normal full workday for the United States Postal Service, applications postmarked on August 1 and any subsequent day(s), if any, through the immediately following normal full workday for the United States Postal Service will be treated the same in determining priority in the issuance of the import licenses.

* * * * *

Signed, the 20th of August, 1987.

Thomas O. Kay,

Administrator, Foreign Agricultural Service.

[FR Doc. 87-19804 Filed 8-27-87; 8:45 am]
BILLING CODE 3410-10-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 576]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 576 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 293,581 cartons during the period August 30 through September 5, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 576 (§ 910.876) is effective for the period August 30 through September 5, 1987.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456, telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Department Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act", 7 U.S.C. 601 through 674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987–88. The committee met publicly on August 25, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended by an 9 to 3 vote (with one abstention) a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market is fair.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 910.876 is added to read as follows:

§ 910.876 Lemon Regulation 576.

The quantity of lemons grown in California and Arizona which may be handled during the period August 30 through September 5, 1987, is established at 293,581 cartons.

Dated: August 26, 1987.

William J. Doyle,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–19981 Filed 8–27–87; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1065

Milk in the Nebraska-Western Iowa Marketing Area; Temporary Revision of Supply Plant Shipping Percentage and Diversion Limitation Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action temporarily reduces for the months of September 1987 through March 1988 the percentage of supply plant receipts that must be transferred or diverted to pool distributing plants in order for the supply plant to maintain pool status under the Nebraska-Western Iowa order. The limits of the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order would also be revised temporarily, from 40 percent to 55 percent, for the same period. The revision is made in response to a request by a cooperative which operates pool supply plants and represents a significant number of producers whose milk is pooled under the order for the purpose of maintaining the pool status of producers historically associated with the Nebraska-Western Iowa order.

EFFECTIVE DATE: August 28, 1987.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456,(202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Temporary Revision of Supply Plant Shipping Percentage and Diversion Limitation Percentage: Issued July 15, 1987; published July 20, 1987 (52 FR 27216).

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under the criteria contained therein.

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the provisions of §§ 1065.7(b)(3) and 1065.13(d)(4) of the Nebraska-Western Iowa order.

Notice of proposed rulemaking was published in the **Federal Register** (52 FR 27216) concerning a proposed reduction in the percentage of supply plant receipts that must be transferred or diverted to pool distributing plants in order for the supply plant to maintain pool status, and a proposed relaxation of the limits on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The temporary reduction would be effective for the months of September 1987 through March 1988. The public was afforded the opportunity to comment on the proposed notice by submitting written data, views and arguments by August 4, 1987.

Statement of Consideration

After consideration of all relevant material, data, views and arguments filed and other available information, it is hereby found and determined that the supply plant shipping percentage set forth in § 1065.7(b) should be reduced by 10 percentage points from the present 40 percent to 30 percent for the months of September 1987 through March 1988. For the same period, the diversion limits on producer milk should be increased by 15 percentage points, from 40 percent to 55 percent.

Pursuant to the provisions of § 1065.7(b)(3) of the Nebraska-Western Iowa milk order, the Director of the Dairy Division may increase or decrease the supply plant shipping percentage as set forth in § 1065.7(b) by up to 20 percentage points during any month. Similarly, Section 1065.13(d) allows the Director of the Dairy Division to increase or decrease the diversion limitation percentages by up to 20 percentage points in any month. Such changes may be made to encourage additional milk shipments needed to assure an adequate supply of milk to fluid handlers, or to prevent uneconomic shipments of milk merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The supply plant shipping percentage of the Nebraska-Western Iowa milk order was reduced temporarily from 40 to 30 percent for the months of September 1986 through March 1987. In addition, the order's diversion limits were revised temporarily from 50 to 60 percent for the months of May through August 1986, from 40 to 60 percent for the months of September through December 1986, from 40 to 55 percent for the months of January through March 1987, and from 50 to 60 percent for the months of July and August 1987.

Associated Milk Producers, Inc. (AMPI), a cooperative association operating supply plants historically pooled under the Nebraska-Western Iowa order and representing producers supplying a significant portion of the producer milk pooled under the order, requested that for the months of September 1987 through March 1988, the supply plant shipping percentage requirement be reduced by 10 percentage points and the diversion limit on producer milk be increased by 15 percentage points.

The cooperative stated that producer milk pooled under the Nebraska-Western Iowa order during the first five months of 1987 was less than 1 percent below the same period of 1986 despite the effect of the Dairy Termination Program (DTP). According to AMPI, 75–80 percent of the DTP sellouts have already taken place. AMPI concluded that non-participants in the Program have increased production substantially enough to offset the volume of production lost to the DTP. The cooperative expects that since the majority of buyouts took place in the second half of 1986, the volume of producer milk pooled in late 1987 and early 1988 will increase over the same month of the previous year. AMPI estimates that its own producers' milk pooled on the Nebraska-Western Iowa order will increase 3–5 percent over the previous year in the period for which the temporary revisions are requested.

When the projected production increases are combined with a decrease of 1.5 percent in Class I sales for January through May 1987 from the same months in 1986, AMPI estimated that the percentage of producer milk used in Class I during the months of September 1987 through March 1988 will be little more than 40 percent. AMPI stated that a 40-percent level of Class I utilization would make it difficult to justify a requirement that 60 percent of producer milk be moved to pool plants. According to the cooperative, such a requirement would involve delivering milk to pool plants, then pumping it back out into trucks that would haul it to nonpool plants where the milk could be used. AMPI stated that such double pumping has a detrimental effect on milk quality.

Because of the expected relationship between milk production and the Class I needs of the market, AMPI stated that 55 percent would be a more appropriate limit on diversions of producer milk to nonpool plants than 40 percent, and that 30 percent would be a more appropriate shipping requirement for pool supply plants than 40 percent. According to the cooperative, the requested temporary revisions would allow AMPI to avoid pooling some producer milk on another Federal order or engaging in uneconomic and inefficient milk movements in order to maintain the pool status of the milk of its members who have historically supplied the fluid needs of the Nebraska-Western Iowa marketing area.

Comments opposing the temporary revision of the supply plant shipping requirement were received from Mid-America Dairymen, Inc. (Mid-Am), a cooperative association representing a substantial number of producers on the Nebraska-Western Iowa market. Mid-Am opposed the temporary revision of supply plant shipping percentages on the basis of Mid-Am's contention that AMPI's description of the Dairy Termination Program impact on the Nebraska-Western Iowa market is in error. Mid-Am's comments stated that instead of being 75–80 percent complete as of June 1, the DTP had disposed of only 55.4 percent of the dairy cattle in the State of Nebraska scheduled for slaughter or export. Mid-Am described Nebraska as the major source of fluid milk for bottlers regulated by the Nebraska-Western Iowa order, and stated that fluid milk handlers located in Omaha and Lincoln would experience a marked decline in their receipts from producers as a large number of dairy herds cease production during August 1987. As a result, the cooperative stated, regulated handlers will rely more heavily on supply plant milk to supply their fluid milk needs during and after August 1987. Mid-Am concluded that a reduction of supply plant shipping requirements by 10 percentage points could jeopardize an adequate supply of milk for fluid handlers located in Omaha and Lincoln, Nebraska.

No comments opposing the proposed relaxation of the Nebraska-Western Iowa order's diversion limits were received.

According to statistics published by USDA in the issues of Dairy Market News for March 31–April 4, 1986 (Vol. 53, No. 14) and June 22–26, 1987 (Vol. 54, No. 26), the number of cows, heifers and calves remaining in herds contracted for disposal as of June 1, 1987, represented less than 20 percent of the number originally scheduled for termination. The effect of the DTP on milk production for the Nebraska-Western Iowa market, then, apparently has already largely been felt. Although milk production pooled under the order has, according to the market administrator's published statistics, declined slightly in 1987 from 1986 levels, the amount of producer milk used in Class I has also declined. As a result, the percentage of producer milk

used in Class I is slightly lower in most months of 1987 than in the same months of 1986. If the assumption is made that the remaining 20 percent of dairy terminations will have as little effect on the Class I utilization percentage of the market as did the first 80 percent, Class I use under the Nebraska-Western Iowa order should average approximately 40 percent for the months covered by the proposed temporary revision. During the fall months of 1986, Class I use was slightly in excess of the 40-percent level while pool supply plant percentage requirements were reduced temporarily from 40 percent to 30 percent. It appears that marketing conditions in the Nebraska-Western Iowa market during the months of September 1987 through March 1988 will be very close to those anticipated by AMPI.

Without the temporary revisions, milk would have to be moved unnecessarily and uneconomically from farms to pool plants and from supply plants to distributing plants for the sole purpose of maintaining the pool status of producers historically pooled under the Nebraska-Western Iowa order. In addition to such movements of milk being inefficient and uneconomic, the additional pumping to which the milk would be subject would be detrimental to the quality of the milk. It is concluded the reduction of the supply plant shipping percentage by 10 percentage points and the relaxation of the producer milk diversion limit by 15 points will prevent uneconomic movements of milk to pool distributing plants merely for the purpose of qualifying it as producer milk under the order.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the months of September 1987 through March 1988;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective upon publication of this notice in the **Federal Register.**

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That for the months of September 1987 through March 1988 in paragraph (b) of § 1065.7, the provision "40 percent" is revised to "30 percent"; and in paragraphs (d) (2) and (3) of § 1065.13, the provision "40 percent" is revised to "55 percent".

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. The authority citation for 7 CFR Part 1065 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

§§ 1065.7 and 1065.13 [Amended]

2. In § 1065.7(b) the words "40 percent" are revised to read "30 percent" for the months of September 1987 through March 1988; in § 1065.13(d) (2) and (3) the words "40 percent" are revised to read "55 percent" for the months of September 1987 through March 1988.

Signed at Washington, DC, on: August 21, 1987.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 87–19627 Filed 8–27–87; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket 87–109]

Restrictions on Importation of Horses From the Netherlands

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the regulations by adding the Netherlands to the list of countries in which contagious equine metritis (CEM) exists. Because the Netherlands is no longer free of CEM, we are restricting the importation of certain horses from that area to prevent the livestock of the United States from contracting the disease.

Dutch stallions and mares older than 731 days will not be permitted into the United States under standard three-day quarantine and testing procedures. Instead, they must submit to the testing and treatment procedures established to qualify stallions and mares from CEM-affected countries for importation into the United States.

DATES: Interim rule effective August 28, 1987. Consideration will be given only to comments postmarked or received on or before October 27, 1987.

ADDRESSES: Send an original and two copies of written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 87–109. Comments received may be inspected in Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 815, Federal Building, Hyattsville, MD 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION:

Background

The regulations on animal importations in 9 CFR Part 92 (referred to below as the regulations) restrict the importation of horses that could introduce various diseases, such as contagious equine metritis (CEM), into the United States. A venereal disease, CEM affects horses' fertility and breeding.

Section 92.2(h)(i)(1) lists the countries in which CEM exists and, with certain exceptions, prohibits importation of horses from those countries. The prohibition applies to horses in any of those countries at any time during the 12 months before the detection of CEM.

In response to a telex from Dutch animal health officials, confirming their finding of CEM on July 22, 1987, we are adding the Netherlands to the list of countries in which CEM exists. We are also making nonsubstantive editorial changes.

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent carriers of CEM from introducing it into the United States.

For this reason, we find upon good cause that, pursuant to the administrative procedure provisions in 5 U.S.C. 553, prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule

effective less than 30 days after publication of this document in the **Federal Register**. We will consider comments postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. Any amendments we make to this interim rule as a result of these comments will be published in the **Federal Register** as soon as possible following the close of the comment period.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographical regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Stallions and mares over 731 days of age and from the Netherlands, must undergo testing and treatment in the Netherlands and the United States more extensive than is standard during a 3-day quarantine. The extra time required for this additional testing and treatment will delay the date of the horses' permanent importation into this country; it will therefore increase the cost to importers of horses from the Netherlands. However, of the 25,742 horses imported into the United States during Fiscal Year 1986, only 418 came from the Netherlands. Of the 418 horses imported from the Netherlands, fewer than half would fall into the category of stallions and mares that this interim rule would affect. We expect this rule to have no effect on importers. Those deterred by the cost of testing and quarantining a stallion or mare affected by this interim rule could, instead, import geldings or, for breeding, horses younger than 731 days. Alternatively, they could import horses from any CEM-free country.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, 9 CFR Part 92 is amended as follows:

1. The authority citation for Part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.2 [Amended]

2. In § 92.2, paragraph (i)(1), ". . . France, Sweden, and the United Kingdom (England, Scotland, Northern Ireland, Norway, Wales and the Isle of Man)." is amended to read, ". . . France, the Netherlands, Norway, Sweden, and the United Kingdom (England, Northern Ireland, Scotland, Wales, and the Isle of Man)."

Done in Washington, DC, this 21st day of August 1987.

B.G. Johnson,

Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87–19758 Filed 8–27–87; 8:45 am]
BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 114

Administrative Claims Under Federal Tort Claims Act

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: Existing Small Business Administration policy presently does not provide for the use of Agency funds to indemnify employees who suffer adverse money judgments or personal damage claims as a result of official acts. This proposed amendment to SBA regulations parallels recently adopted Department of Justice regulations in permitting indemnification in appropriate situations, as determined by the Administrator or his designee.

EFFECTIVE DATE: August 28, 1987.

FOR FURTHER INFORMATION CONTACT: Eric S. Benderson, Associate General Counsel, Small Business Administration, 1441 L Street NW., Room 716, Washington, DC 20416, (202) 653–6509.

SUPPLEMENTARY INFORMATION: Presently the Small Business Administration does not indemnify Agency employees who are sued in their individual capacity and who suffer an adverse judgment as a result of conduct taken within the scope of their employment, nor does it settle these claims with Agency funds. Lawsuits against Federal employees in their personal capacity have proliferated since the Supreme Court's decision in *Bivens* v. *Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971). As reported by the Department of Justice, since 1971, over 12,000 claims have been filed against Federal employees; nearly 3,000 actions are now pending. A growing number of such suits have been filed against SBA officials. These suits attack SBA officials performing a wide variety of functions.

While the Agency work force itself is generally well-disciplined, the risk of personal liability and the burden of defending a suit as a result of performing one's employment duties have a significant effect on Agency operations. An adverse judgment against a Federal employee has detrimental consequences for both the individual and the government. The potential for being found personally liable and the uncertainty as to what actions may culminate in a lawsuit intimidates all employees, discouraging initiative and decisiveness. As Professor Kenneth Culp Davis has stated:

> The public suffers whenever a government employee resolves doubts in order to protect his own pocketbook instead of resolving doubts in order to protect the public interest-courageous action of public employees is often essential, and it should not be discouraged by the threat of a lawsuit against the employee personally.

K. Davis, Constitutional Torts 25, 28 (1984).

On a broader scale, this fear of personal liability affects government operation, decision-making, and policy determination.

The Agency believes that lawsuits against Federal employees in their

personal capacity seriously hinder the Agency's effective functioning. A change in SBA policy to permit indemnification of its employees would help alleviate this problem and afford SBA employees the same protection now given to other Federal officials. As noted previously, the Department of Justice has recently enacted a similar amendment allowing for indemnification of Department employees. 28 CFR Part 50.

This change in SBA policy permits, but does not mandate, that the Agency indemnify an employee who suffers an adverse judgment, verdict, or monetary award. The actions which give rise to the claim or judgment must fall within the individual's scope of employment, and indemnification should be in the interest of the Small Business Administration as determined by the Administrator or his designee. In rare instances, where the Administrator deems it appropriate, an individual damage claim may be settled with Agency funds prior to entry of judgment. Absent exceptional circumstances, however, SBA will not agree to indemnify an employee or settle a claim before entry of an adverse determination. This provision is designed to discourage claims brought against Agency employees solely in order to pressure the Agency into settlement. Denial of dispositive motions or delay in deciding such motions will ordinarily not lead to settlement before trial and judgment.

These regulations are published in final form without the opportunity for public notice and comment because they relate to SBA management and personnel.

Accordingly, 13 CFR Part 114 is amended as follows:

PART 114—ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT AND INDEMNIFICATION AND REPRESENTATION OF SBA EMPLOYEES

1. The Authority for Part 114 is revised to read as follows:

Authority: 15 U.S.C 634(b)(1); 15 U.S.C. 634(b)(6); 28 U.S.C. 2672; 28 CFR 14.11 (31 FR 16616).

2. Part 114 is amended by revising the heading; designating existing §§ 114.100 through 114.111 as Subpart A; and adding Subpart B, to read as follows:

Subpart A—Administrative Tort Claims

* * * * *

Subpart B—Indemnification and Representation of SBA Employees

Sec.
114.112 Policy.
114.113 Attorney-client privilege.

Subpart B—Indemnification and Representation of SBA Employees

§ 114.112 Policy.

(a) The Small Business Administration may indemnify an SBA employee, who is personally named as a defendant in any civil suit in state or federal court or an arbitration proceeding or other proceeding seeking damages against an SBA employee personally, for any verdict, judgment, or other monetary award which is rendered against such employee, provided that the conduct giving rise to the verdict, judgment, or award was taken within the scope of his or her employment and that such indemnification is in the interest of the Small Business Administration, as determined by the Administrator or his designee.

(b) The Small Business Administration may settle or compromise a personal damage claim against an SBA employee by the payment of available funds, at any time, provided the alleged conduct giving rise to the personal damage claim was taken within the employee's scope of employment and that such settlement or compromise is in the interest of the Small Business Administration, as determined by the Administrator or his designee.

(c) Absent exceptional circumstances as determined by the Administrator or his designee, the Agency will not entertain a request either to agree to indemnify or to settle a personal damage claim before entry of an adverse verdict, judgment, or award.

(d) An SBA employee may request indemnification to satisfy a verdict, judgment, or award entered against that employee. The employee shall submit a written request, with appropriate documentation including copies of the verdict, judgment, award, or settlement proposal, in a timely manner to the General Counsel, who shall make a recommended disposition of the request. Where appropriate, the Agency shall seek the views of the Department of Justice. The General Counsel shall forward the request, the accompanying documentation, and the General Counsel's recommendation to the Administrator for decision.

(e) Any payment under this section either to indemnify a Small Business Administration employee or to settle a personal damage claim shall be contingent upon the availability of appropriated funds of the Small Business Administration.

§ 114.13 Attorney-client privilege.

Attorneys employed by the Small Business Administration who participate in any process utilized for the purpose of determining whether the Agency should request the Department of Justice to provide representation to an Agency employee sued, subpoenaed or charged in his individual capacity, or whether attorneys employed by the Small Business Administration should provide assistance in the representation of such an agency employee, undertake a full and traditional attorney-client relationship with the employee with respect to application of the attorney-client privilege. If representation is authorized, Small Business Administration attorneys who assist in the representation of an employee also undertake a full and traditional attorney-client relationship with the employee with respect to the attorney-client privilege. Any adverse information communicated by the client-employee to an attorney during the course of such attorney-client relationship shall not be disclosed to anyone, either inside or outside the Small Business Administration, other than attorneys responsible for representation of the employee, unless such disclosure is authorized by the employee. Such adverse information shall continue to be fully protected whether or not representation is provided, and even though representation may be denied or discontinued.

Dated: August 7, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-19590 Filed 8-27-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-100-AD; Amdt. 39-5714]

Airworthiness Directives: Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD), applicable to certain Boeing Model 727 series airplanes, which currently requires the inspection and repair of cracks in the forward frame of the Number 3 cargo door cutout. This amendment is prompted by a reported case of one operator who did not repair

several cracks discovered during the inspection required by this AD. The cracking, if not repaired, could result in the failure of the frame and could result in rapid depressurization of the airplane. To assure continued compliance with this AD, a statement is being added to reaffirm the repair requirements.

DATES: Effective September 3, 1987.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-1924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On August 5, 1986, the FAA issued AD 86-17-05, Amendment 39-5391 (51 FR 29213; August 15, 1986), applicable to Boeing Model 727-200 series airplanes equipped with the Number 3 cargo door, to require inspection for cracks in the forward frame of the Number 3 cargo door cutout. Since issuance of that AD, there has been one report that an operator may have misinterpreted paragraph C. of the AD. The operator reportedly believed that it was acceptable to continue to reinspect the cracked forward frame instead of repairing it prior to further flight. The cracking, if not repaired, could lead to failure of the frame, which could result in rapid depressurization of the airplane.

Since this condition may exist or develop on other airplanes of this same type design, the FAA has determined that paragraph C. of AD 86-17-05 must be amended to clarify the requirement that repair of cracking must be accomplished prior to further flight. This clarification will ensure that operators cannot misinterpret the intent of the rule.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By amending AD 86-17-05, Amendment 39-5391 (51 FR 29213; August 15, 1986), by revising paragraph C. to read as follows:

C. Repair, prior to further flight, any cracks detected in the forward frame of the Number 3 cargo door cutout, in accordance with paragraph G. of the Accomplishment Instructions in Boeing Alert Service Bulletin 727-53A0169, Revision 2, dated May 23, 1986, or later FAA-approved revisions. Reinspect, at intervals not to exceed 2,200 landings, all areas of the forward frame not covered by the repair, in accordance with the Accomplishment Instructions of paragraphs C., D., and E. of Boeing Alert Service Bulletin 727-53A0169, Revision 2, dated May 23, 1986, or later FAA-approved revisions.

This amends AD 86-17-05, Amendment 39-5391.

This Amendment becomes effective September 3, 1987.

Issued in Seattle, Washington, on August 10, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-19734 Filed 8-27-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-ANE-01; Amdt. 39-5695]

Airworthiness Directives; Intreprinderea De Constructii Aeronautice Model IS-28B2

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Intreprinderea De Constructii Aeronautice Model IS-28B2 gliders which requires an initial visual inspection and replacement of the aileron control levers and forks. This action was prompted by the determination that the aileron control lever and forks can fail from excessive loads induced by deformed or misrigged parts. This condition, if not corrected, could result in the glider becoming uncontrollable.

DATES: *Effective* September 3, 1987.

Compliance schedule—As prescribed in the body of the AD.

Incorporation by Reference—Approved by the Director of the Federal Register as of September 3, 1987.

ADDRESSES: The technical information and modification parts specified in this AD may be obtained from Sprague Aviation Incorporated, 699 Linwood, Vacaville, California 95688. A copy of the technical note is contained in the Rules Docket, Federal Aviation Administration, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Munro Dearing, Brussel's Aircraft Certification Office, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, 15 Rue de la Loi B-1040, Brussels, Belgium; telephone 513.38.30 ext. 2710, or John J. Maher, ANE-172, Federal Aviation Administration, New England Region, Aircraft Certification Division, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone 516-791-6221.

SUPPLEMENTARY INFORMATION: Intreprinderea De Constructii Aeronautice has determined that failure may occur in the aileron control levers and forks of their Model IS-28B2 gliders from mishandling the aileron or misrigging the aileron control system. The manufacturer has issued Service Bulletin No. IS-28B2-EO-14, dated August 20, 1985, which requires replacement of the aileron levers and

forks. The Romanian Department of Civil Aviation, which has the responsibility and authority to maintain the continuing airworthiness of these gliders in Romania, has classified Service Bulletin No. IS–28B2–EO–14 as mandatory, requiring compliance with the provisions of this service bulletin on gliders operated under Romania registration. The FAA relies upon the certification of the Romanian Department of Civil Aviation, combined with FAA review of pertinent documentation, in finding compliance of the design of these gliders with the applicable United States airworthiness requirements, and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the avilable information related to the issuance of Intreprinderea De Constructii Aeronautice Service Bulletin No. IS–28B2–EO–14 and the mandatory classification of this service bulletin by the Romanian Department of Civil Aviation. Based on the foregoing, the FAA has detemined that the condition addressed by Intrepinderea De Constructii Aeronautice Service Bulletin No. IS–28B2–EO–14 is an unsafe condition that may exist on other products for the same type design certificated for operation in the United States.

Therefore, an AD is being issued to required initial visual inspection and replacement of the aileron control levers and forks on Intreprinderea De Constructii Aeronautice Model IS–28B2 gliders. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

Conclusion

The FAA has determined that his regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption, **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows;

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding to § 39.13 the following new airworthiness directive (AD):

Intrepinderea De Constructii Aeronautice: Applies to Model IS–28B2 gliders through serial number 160 inclusive certificated in any category.

Compliance is required as indicated unless already accomplished.

To prevent the failure of the aileron control levers and forks which could result in the glider becoming uncontrollable, accomplish the following:

(a) Within the next 5 hours time-in-service after the effective date of this AD unless compliance with paragraph (c) has been accomplished, visually inspect the aileron control levers P/N 30AD.02.028 and aluminum NIA 181–2 forks using a 10 power or greater magnifying glass for cracks or deformation.

(b) If a cracked or deformed part is found during the inspection required by paragraph (a) of this AD, before further flight, replace the aileron control levers and forks with serviceable levers and forks, new design P/N 30AD.02.028 lever and steel NIA 201–2 fork, in accordance with the accomplishment instructions of Intreprinderea De Constructii Aeronautice Service Bulletin No. IS–28B2–EO–14, dated August 20, 1985.

Note.—The manufacturer has assigned the same part number to the new design aileron lever as the original design aileron lever. The new lever can be identified by measuring the length of the section which is reduced in thickness on the longer arm of the aileron lever. The new design aileron lever is reduced in thickness 42mm from the end of the longer arm whereas the old design aileron lever is reduced in thickness 27mm from the end of the longer arm.

(c) Prior to September 30, 1987, replace any aileron control system levers and forks not replaced in accordance with paragraph (b) of this AD, with serviceable levers and forks, new design P/N 30AD.02.028 lever and steel NIA 201–2 fork, in accordance with Intreprinderea De Constructii Aeronautice Service Bulletin No. IS–28B2–EO–14 dated August 20, 1985.

Note.—The aileron levers removed from service should be destroyed or disfigured to prevent reuse.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Brussels Aircraft Certification Office, AEU–100, Europe, Africa, and Middle East Office, Federal Aviation Administration, c/o American Embassy, 15 Rue de la Loi B–1040, Brussels, Belgium; telephone 513.38.30 ext. 2710, or the Manager, Federal Aviation Administration, New England Region, Aircraft Certification Division, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone 516–791–6680.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Brussels Aircraft Certification Office, or the Manager, New York Aircraft Certification Office, may adjust the compliance time specified in this AD.

Intreprinderea De Costructii Aeronautice Service Bulletin No. IS–28B2–EO–14, dated August 20, 1985, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Sprague Aviation Incorporated, 699 Linwood, Vacaville, California 95688. This document also may be examined at the Office of the Regional Counsel, Federal Aviation Administration, New England Region, 12 New England Executive Park, Room 311, Burlington, Massachusetts, 01803, Rules Docket 87–ANE–01, between the hours of 8:00 a.m. and 4:30 p.m.; Monday thru Friday, except federal holidays.

This amendment becomes effective on September 3, 1987.

Issued in Burlington, Massachusetts, on July 23, 1987.

Lawrence C. Sullivan,

Acting Director, New England Region.

[FR Doc. 87–19735 Filed 8–27–87; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 86-ACE-04]

Alteration of Control Zone and Transition Area, Garden City, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to alter the control zone and the 700-foot transition area at Garden City, Kansas. The Holcomb Nondirectional Radio Beacon (NDB), located northwest of the Garden City Municipal Airport, has been decommissioned and the instrument approach procedure has been canceled. As a result, this proposed action is necessary to redefine controlled airspace at Garden City, Kansas.

EFFECTIVE DATE: November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Dale Carnine, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Discussion of Comments

The FAA hereby amends Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171), and Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181), by altering the control zone and 700-foot transition area at Garden City, Kansas. The Holcomb Nondirectional Radio Beacon (NDB), located northwest of the Garden City Municipal Airport, has been decommissioned and the instrument approach procedure canceled. Therefore, the control zone and transition area at this location are being redefined as set forth herein. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6C, dated January 2, 1987.

On pages 19360 and 19361 of the **Federal Register**, dated May 22, 1987, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Garden City, Kansas. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rulemaking.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 71 of the FAR (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. By amending § 71.171 as follows:

Garden City, Kansas [Revised]

Within a 5-mile radius of the Garden City Municipal Airport (lat. 37°55'36" N., long. 100°43'29" W.), and within 2½ miles each side of the 004° radial of the Garden City VORTAC extending from the 5-mile radius zone to 8 miles north of the VORTAC; and within 2½ miles each side of the 171° radial of the Garden City VORTAC extending from the 5-mile radius zone to 5 miles south of the VORTAC.

§ 71.181 [Amended]

3. Additionally, by amending § 71.181 as follows:

Garden City, Kansas [Revised]

That airspace extending upward from 700 ft. above the surface within a 7-mile radius of the Garden City Municipal Airport (lat. 37°55'36" N., long. 100°43'29" W.), and 4½ miles east and 9½ miles west of the 004° radial of the Garden City VORTAC extending from the 7-mile radius to 18½ miles north of the VORTAC.

This amendment becomes effective 0901 UTC November 19, 1987.

Issued in Kansas City, Missouri, on August 18, 1987.

Clarence E. Newbern,

Acting Manager, Air Traffic Division.

[FR Doc. 87-19737 Filed 8-27-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 25354; Amdt. No. 1355]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 97

Approaches, Standard Instrument, Incorporation by reference.

Issued in Washington, DC on August 21, 1987.

Robert L. Goodrich,

Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective November 19, 1987

Norwood, MA—Norwood Memorial, LOC RWY 35, Amdt. 4
Norwood, MA—Norwood Memorial, NDB RWY 35, Amdt. 4
Penn Yan, NY—Penn Yan, NDB RWY 28, Amdt. 4

. . . Effective October 22, 1987

Miami, FL—Opa Locka, VOR RWY 9L, Amdt. 16
Miami, FL—Opa Locka, ILS RWY 9L, Amdt. 2
Miami, FL—Opa Locka, RNAV RWY 9L, Amdt. 7
Fort Wayne, IN—Fort Wayne Muni/Baer Fld/, VOR or TACAN RWY 5, Amdt. 18
Fort Wayne, IN—Fort Wayne Muni/Baer Fld/, VOR RWY 9, Amdt. 12
Fort Wayne, IN—Fort Wayne Muni/Baer Fld/, VOR RWY 14, Amdt. 15
Fort Wayne, IN—Fort Wayne Muni/Baer Fld/, VOR or TACAN RWY 23, Amdt. 11
Fort Wayne, IN—Fort Wayne Muni/Baer Fld/, LOC BC RWY 14, Amdt. 12
Fort Wayne, IN—Fort Wayne Muni/Baer Fld/, LOC BC RWY 23, Amdt. 6
Fort Wayne, IN—Fort Wayne Muni/Baer Fld/, NDB RWY 32, Amdt. 22
Fort Wayne, IN—Fort Wayne Muni/Baer Fld/, ILS RWY 5, Amdt.10
Fort Wayne, IN—Fort Wayne Muni/Baer Fld/, ILS RWY 32, Amdt. 25
Fort Wayne, IN—Fort Wayne Muni/Baer Fld/, RADAR-1, Amdt. 22
Winchester, IN—Randolph County, VOR-A, Amdt. 8
Winchester, IN—Randolph County, NDB RWY 25, Amdt. 4
Somerset, KY—Somerset-Pulaski CTY J.T. Wilson Fld, SDF RWY 4, Amdt. 3
Somerset, KY—Somerset-Pulaski CTY J.T. Wilson Fld, NDB RWY 4, Amdt. 3
Baton Rouge, LA—Baton Rouge Metropolitian Ryan Field, LOC BC RWY 4, Amdt. 2
Marshfield, MA—Marshfield, NDB RWY 6, Amdt. 1
Roseau, MN—Roseau Muni, VOR-A, Amdt. 6
Roseau, MN—Roseau Muni, VOR RWY 16, Amdt. 5
Gulfport, MS—Gulfport-Gulfport-Biloxi Regional, LOC RWY 31, Orig. CANCELLED
Gulfport, MS—Gulfport-Gulfport-Biloxi Regional, ILS RWY 31, Orig.
Starkville, MS—George M. Bryan, RNAV RWY 36, Orig.
Altus, OK—Altus Muni, VOR-A, Amdt. 3
Altus, OK—Altus Muni, RADAR-1, Orig.
Altus, OK—Altus Muni, RNAV RWY 17, Orig.
Baker, OR—Baker Muni, VOR-A, Orig.
Baker, OR—Baker Muni, VOR/DME RWY 12, Amdt. 10
Baker, OR—Baker Muni, VOR RWY 12, Orig., CANCELLED

. . . Effective September 24, 1987

Pittsfield, MA—Pittsfield Muni, LOC RWY 26, Amdt. 2

Menominee, MI—Menominee-Marinette Twin County, NDB RWY 3, Orig.
Menominee, MI—Menominee-Marinette Twin County, ILS RWY 3, Orig.
Pennington Gap, VA—Lee County, NDB-A, Amdt. 2

... Effective August 17, 1987

Walla Walla, WA—Walla Walla City County, ILS RWY 20, Amdt. 7

[FR Doc. 87-19733 Filed 8-27-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 370, 371, 372, and 374

[Docket No. 70859-7159]

Switzerland: General Licenses G-COM, GCG, and G-CEU, Shorter Processing Time Frames, and Permissive Reexports From Switzerland to the People's Republic of China

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: As part of the Department of Commerce initiative to remove unnecessary export licensing requirements for countries that have established the ability to safeguard reexports of U.S.-origin strategic goods and technology, Export Administration is extending full benefits to Switzerland under section 5(k) of the Export Administration Act of 1979, as amended. Specifically, Export Administration is amending General Licenses G-COM, GCG, and G-CEU to authorize certain shipments of U.S.-origin commodities to Switzerland, revising § 370.14 to subject license applications for Switzerland to shorter processing time frames, and removing the requirement for specific U.S. reexport authorization for reexports from Switzerland to the People's Republic of China of commodities described in Advisory notes for the People's Republic of China or Country Groups Q, W, and Y.

EFFECTIVE DATE: This rule is effective August 28, 1987.

FOR FURTHER INFORMATION CONTACT: John Black, Regulations Branch, Export Administration, Telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under Control Numbers 0625-0001 and 0625-0009.

3. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to John Black, Office of Technology and Policy Analysis, Export Administration, International Trade Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 370, 371, 372, and 374

Administrative practice and procedure, Exports, Reporting and recordkeeping requirements.

Accordingly, Parts 368 through 399 of the Export Administration Regulations are amended as follows:

PARTS 370 AND 374—[AMENDED]

1. The authority citation for 15 CFR Parts 370 and 374 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; and E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

PARTS 371 AND 372—[AMENDED]

2. The authority citation for 15 CFR Parts 371 and 372 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

PART 370—[AMENDED]

3. In § 370.14, paragraph (a) is amended by adding "and Switzerland" immediately after "Finland" in paragraph (3)(ii) and adding two sentences immediately following the third sentence in the introductory text to read as follows:

§ 370.14 Processing license applications for COCOM participating countries and other selected countries.

(a) * * * The procedures and time limits set forth in this section apply to applications for Switzerland received in the Office of Export Licensing on or after August 28, 1987. Applications for Switzerland received prior to that date will be processed under the previous time frames. * * *

* * * * *

PART 371—[AMENDED]

4. Section 371.8 is amended by adding ", Switzerland," immediately after "Sweden" in paragraph (a) and by adding "Switzerland," between "Sweden," and "Turkey," in paragraph (b).

§ 371.14 [Amended]

5. In § 371.14, paragraph (b) is amended by adding ", Switzerland," immediately after the word "Sweden".

§ 371.20 [Amended]

6. In § 371.20, the introductory text of paragraph (a) is amended by adding ", Switzerland," immediately after the word "Sweden".

PART 372—[AMENDED]

§ 372.11 [Amended]

7. In § 372.11, paragraph (d)(3) is amended by adding ", Switzerland," immediately after the word "Finland".

PART 374—[AMENDED]

§ 374.2 [Amended]

8. In § 374.2, paragraph (j) is amended by adding the words "Switzerland or" immediately before the words "a COCOM".

Dated: August 25, 1987.

Daniel E. Cook,

Acting Deputy Assistant Secretary for Export Administration.

[FR Doc. 87-19789 Filed 8-27-87; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor Name

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change in sponsor name from Evsco Pharmaceuticals, An Affiliate of ImmunoGenetics, Inc., to Evsco Pharmaceuticals, An Affiliate of IGI, Inc.

EFFECTIVE DATE: August 28, 1987.

FOR FURTHER INFORMATION CONTACT: John Markus, Center for Veterinary Medicine (HFV-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: IGI, Inc. has informed FDA that it has changed its name from ImmunoGenetics, Inc. and that it has changed the name of its affiliate Evsco Pharmaceuticals, An Affiliate of ImmunoGenetics, Inc., to Evsco Pharmaceuticals, An Affiliate of IGI, Inc. Evsco Pharmaceuticals, An Affiliate of IGI, Inc., Box 209, Harding Hwy., Buena, NJ 08310, is the sponsor of several approved new animal drug applications (NADA's). The agency is amending 21 CFR 510.600(c) (1) and (2) to reflect this change in name.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) in the entry for "Evsco Pharmaceuticals, An Affiliate of ImmunoGenetics, Inc.," to read "Evsco Pharmaceuticals, An Affiliate of IGI, Inc.," and in paragraph (c)(2) in the entry "017030" by revising the sponsor's name to read "Evsco Pharmaceuticals, An Affiliate of IGI, Inc.," * * *.

Dated: August 21, 1987.

Richard A. Carnevale,

Acting Associate Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 87-19748 Filed 8-27-87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 668

Emergency Relief; Technical Correction

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule; technical correction.

SUMMARY: This document corrects a rule on emergency relief that appeared at page 21945 in the **Federal Register** of Wednesday, June 10, 1987 (52 FR 21945). This action is necessary to remove "Puerto Rico" from the listing of exceptions for receipt of the Federal Share funds in a specified amount resulting from a single natural disaster or a single catastrophic failure. It was inadvertently included in the list of exceptions.

EFFECTIVE DATE: August 28, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Carney, Railroads, Utilities and Programs Branch, Office of Engineering (202) 366-4652, or Mr. Michael J. Laska, Office of the Chief Counsel (202) 366-1383, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

PART 668—[AMENDED]

§ 668.107 [Amended]

In FR Doc. 87-13184, in the issue of Wednesday, June 10, 1987, on page 21949, in 23 CFR 668.107(b) remove the words "Puerto Rico or" in the first sentence and "Puerto Rico," in the second sentence.

(20 U.S.C. 315; 49 CFR 1.48)

Issued on August 24, 1987.

Hugh T. O'Reilly,

Deputy Chief Counsel, Federal Highway Administration.

[FR Doc. 87-19840 Filed 8-27-87; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 34

Medical Examination of Aliens

AGENCY: Centers for Disease Control, Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This rule amends the Medical Examination of Aliens regulations (42 CFR Part 34) by substituting human immunodeficiency virus (HIV) infection for acquired immunodeficiency syndrome (AIDS) on the list of dangerous contagious diseases and by expanding the scope of the medical examination to include serologic testing for HIV infection. Serologic testing to identify HIV infection in applicants is to be performed as part of the medical examination conducted in the country in which the alien applies for a visa or for adjustment of status. Section 518 of Public Law (Pub. L.) 100-71, the Supplemental Appropriations Act of 1987, contains a provision requiring that HIV infection be added to the list of dangerous contagious diseases contained in 42 CFR 34.2(b).

EFFECTIVE DATE: In accordance with section 518 of Pub. L. 100-71, the amendment to § 34.2(b) is effective August 31, 1987. The amendments to § 34.4(a) are effective December 1, 1987.

FOR FURTHER INFORMATION CONTACT: Charles R. McCance, Acting Director, Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329-2574, or FTS 236-2574.

SUPPLEMENTARY INFORMATION: Section 212(a) of the Immigration and Nationality Act (42 U.S.C. 1182(a)), lists six medical grounds for the exclusion of

aliens. The sixth ground excludes aliens with a "dangerous contagious disease." Acquired immunodeficiency syndrome (AIDS) was added to the list of dangerous contagious diseases in a Final Rule published on June 8, 1987 (52 FR 21532). Medical guidance for examining physicians has since been distributed worldwide so that those aliens with clinical signs or symptoms of AIDS may be identified and refused a visa or denied admission if a diagnosis of AIDS is suspected. Serologic testing for human immunodeficiency virus (HIV) antibody is currently called for *only* for those aliens who are suspected of having AIDS.

A Notice of Proposed Rulemaking (NPRM), also published in the **Federal Register** on June 8, 1987 (52 FR 21607), proposed that human immunodeficiency virus (HIV) infection be substituted for acquired immunodeficiency syndrome (AIDS). Sections 004.9 and 795.8 of the "International Classification of Diseases," 9th Revision, Clinical Modification, dated October 1, 1986, now classify infection due to HTLV–III/LAV (HIV) as a disease category. All persons with AIDS have HIV infection. the NPRM also proposed that the scope of the medical examination be expanded to include serologic testing for HIV. These amendments were proposed because any person infected with HIV is assumed to be capable of transmitting the virus.

To identify applicants with HIV infection, it is necessary to modify the scope of the required medical examination to include serologic testing for HIV infection. *All* aliens 15 years of age and older who are subject to the medical examination (and under 15 if indicated) would be required to be tested for HIV. The preamble to the NPRM explained fully the background and reasons for proposing these revisions, and invited comments. Since publication of the NPRM, Pub. L. 100–71, the Supplemental Appropriations Act of 1987, was signed into law by the President on July 11, 1987. Section 518 of the Act requires the President to add HIV infection to the list of dangerous contagious diseases contained in Title 42 of the Code of Federal Regulations on or before August 31, 1987.

Discussion of Comments

The NPRM proposing the addition of HIV infection to the list of dangerous contagious diseases and serologic testing for the virus provided a 60 day comment period during which comments were received from 75 sources. The majority of the commenters, many of whom were organizations representing or working with aliens, were opposed to the revisions. However, these commenters raised many of the issues and problems which were raised by those who commented on the NPRM proposing the addition of AIDS to Part 34.

Discussion of the substantive comments and the Department's response follow:

Comment: Several commenters expressed concern that a requirement by the United States for mandatory testing of immigrants for HIV infection could lead to replication and amplification by other countries, for tourists as well as other temporary international travelers, resulting in restrictive policies and disruptions and is in conflict with World Health Organization recommendations. Commenters also were concerned with the lack of capacity for serologic testing for HIV infection in many countries, the impact on many countries' health resources, the injustice of a perceived large number of false positive tests, and problems of confidentiality resulting from the testing process. Commenters also stated that since this country has the largest reservoir of AIDS, the low numbers of infected aliens that would be identified would not prove testing to be cost effective.

Many commenters stated that HIV testing in order countries should not be undertaken without mandatory followup, counseling and strict confidentiality of the results. Other commenters believed fraudulent HIV tests would become a problem, and many pointed out that the proposed revisions do not specify the tests to be used or contain guidelines for testing.

Response: The purpose of listing HIV infection as an exludable health condition is to prevent the importation and related further spread of HIV into the United States. Any person infected with HIV is assumed to be capable of transmitting the virus. HIV is transmitted through sexual contact, needle sharing, transfusion of contaminated blood and blood products, and transplacentally or perinatally from infected mother to her fetus or newborn. The spread of HIV by certain high risk sexual practices is not unlike transmission of several other diseases currently on the list of "dangerous contagious diseases."

The Department shares concerns about the capacity and quality of testing for HIV in many countries. For the few visa issuing posts that do not have local testing facilities, the Department believes that there will be regional laboratories available where sera can be transported for testing. The Department does not anticipate false positive testing to be a particular problem. False positives are extremely rare if two screening tests and a confirming supplemental test are performed and all are positive. While this regulation does not specify what test will be used, the Centers for Disease Control prepares and distributes medical screening manuals to examining physicians that will address this issue. The Department believes that these concerns do not justify further delay in providing for the excludability of infected aliens in Part 34.

In regard to concerns expressed about possibly more restrictive international measures being adopted by others, it should be noted that this rule does not conflict with the report of a World Health Organization consultation on international travel and human immodeficiency virus held in Geneva March 2–3, 1987 (WHO Weekly Epidemiologic Record, March 20, 1987). This consultation addressed issues related to international travel, but it did not address decisions individual countries might make with respect to the issuance of a visa.

The concerns by commenters about cost effectiveness are based on the expectation of low prevalence of HIV infection in the population seeking admission compared to prevalence in the United States. The cost to the Government of HIV screening of refugees overseas has been estimated by the Department of State to be four million dollars per year. However, aliens required to have a medical examination in connection with the issuance of a visa and aliens applying for adjustment of status to permanent residence already must pay the cost of the medical examinations, including any testing.

Medical screening manuals will address other issues raised by the commenters, including the following:

(a) The medical examiner will be responsible for establishing internal office procedures for conducting the medical examination which minimize the opportunity for fraud. In accordance with the Department of State's Foreign Affairs Manual (22 CFR 42.113, Procedural Notes 1.4), complete medical examination reports for all applicants should be sent directly to the consular officer by the examining physician except where such procedure is impracticable. Further, the medical examiner must ensure that the person tested is the actual applicant.

(b) Medical examiners will be expected to comply with all local disease reporting requirements.

(c) Applicants will be informed that serologic testing for HIV is a requirement to determine admissibility to th United States and that in addition to denial of admission to the United States, a positive result could have other consequences in the country of testing. Confidentiality will be safeguarded to the extent possible. However, in a world-wide testing program, the United States Government can neither guarantee confidentiality of all HIV test results nor assume responsibility for any possible consequences of a positive test result. Applicants will be informed early in the visa application process, perhaps in the visa application packet provided to them by the United States visa issuing post, that serologic testing for HIV infection is a mandatory part of their medical examination, that the results will be provided to consular officials just as other test results are reported, that disease reporting requirements of the country will be followed, and that a classification of HIV infection will make them ineligible to receive a visa. In addition, medical examiners will be required to verify that all applicants are aware of the testing requirements, of the reporting of test results to the consular or immigration officer, and of the necessity of reporting results to the appropriate local health authorities if local law requires.

(d) Applicants will be counseled in the event of a positive test result. Becoming aware of HIV infection can have extreme psycholgoical and social implications for the individual. Medical examiners will recommend that the applicant inform his or her personal physician about the test result, and provide information as to where counseling may be obtained, and at a minimum, inform the applicant about recommended behavior changes to minimize risk of HIV infection or transmission. Considering the complexity of the many different cultures around the world, CDC will explore the feasibility of preparing training materials on posttest-counseling, such as a short video tape, for medical examiners.

(e) The Department is aware that special testing and counseling arrangements may need to be established for refugees in certain circumstances. The potential effects of testing refugees in camps in first-asylum countries and the difficulties posed by some admissions programs, such as those for Soviet Jews, Vietnamese, and Cuban political prisoners, are of particular concern. The Department will work closely with the Department of State to ensure that the testing program is implemented with respect to refugees in a way that will protect both the affected refugees and U.S. foreign and humanitarian policy interests served by the refugee admissions program.

Comment: Some commenters expressed concern about the restrictive nature of the proposed rule which requires HIV serologic testing to be performed abroad. This concern is based on the belief that unpredictable emergency situations might arise when aliens fleeing persecution and seeking admission to the United States as refugees would need to be moved promptly to the United States without having undergone all, or part, of the medical examination before arrival. The Department of State has indicated that important foreign and humanitarian policy objectives would be jeopardized by a rigid requirement that testing always be done overseas, and that such a requirement would undercut flexible admissions procedures established by the Refugee Act of 1980.

Response: The Department recognizes that unpredictable emergency circumstances have arisen in the past which have required that refugees be brought directly to the United States before receiving required medical examinations. It is further recognized that the Refugee Act of 1980 allows for flexibility in handling medical examination of refugees. Consequently, the Final Rule has been modified to provide flexibility in appropriate emergency situations as determined by the Attorney General after consultation with the Secretary of State and the Secretary of Health and Human Services.

Comment: Numerous commenters expressed concerns about the impact of HIV testing on refugees, and on illegal aliens in the United States applying for adjustment of status. Many felt it would be unfair to deny adjustment of status to refugees or to illegal aliens with HIV infection, particularly when the infection may have been acquired in the United States. Some commenters felt that the impact on local resources and facilities would be too great a burden for many local areas. Some commenters argued that potential applicants would be driven "underground" where those with HIV infection would continue to spread infection, thereby actually increasing the number of cases in the United States.

Response: In section 212(g) of the Immigration and Nationality Act (INA), there are provisions for waiver for certain health related exclusions, e.g., tuberculosis, for the following classes of aliens applying for an *immigrant* visa abroad or for routine *adjustment of status to permanent residency* in the United States: Spouses, children, parents, brothers, and sisters of United States citizens; spouses and children of aliens who are already legal permanent residents; and individuals coming here permanently on the basis of a job offer. However, there are no provisions for waiver for these classes of aliens who are infected with other diseases like HIV.

By contrast, the Refugee Act of 1980 and the Immigration Reform and Control Act of 1986 (IRCA) both give the Attorney General the discretionary authority to waive numerous ineligibility grounds for *refugees* and those illegal aliens seeking adjustment of status (1) for humanitarian purposes, (2) to assure family unity, or (3) when it is otherwise in the public interest. It should be noted that this discretionary waiver authority applies to refugees and illegal aliens as distinct from those aliens described in the previous paragraph who are seeking routine adjustment of status under the INA.

Aliens seeking temporary *nonimmigrant* visas may also seek a waiver of various ineligibilities under section 212(d)(3) of the INA. Among the grounds which may be waived in these nonimmigrant cases is ineligibility because of infection with a dangerous contagious disease.

Thus, refugees and illegal aliens seeking adjustment of status and nonimmigrants (including those seeking medical care) infected with HIV will now be able to request a waiver of ineligibility to be granted at the discretion of the Attorney General.

Section 212(d)(5) of the INA does give the Attorney General authority to *parole* an alien into the United States for emergency reasons deemed strictly in the public interest. The INS uses this parole authority sparingly, and only decides requests on a case-by-case basis. The INS generally does not use parole to overcome exclusion grounds which cannot be waived by the provisions of the INA.

As previously indicated, the Department of Justice currently has authority under IRCA to waive any excludable medical condition (including HIV infection) found in applicants for legalization. Although some applicants who have reason to believe that they are infected may go underground and not apply for legalization, such individuals will still be able to seek counseling and testing anonymously.

The Department agrees that in certain high impact areas applicants for legalization may tax the ability of local facilities to provide testing and

counseling. Should this occur, the Department and State governments will have to deal with them on a case-by-case basis.

Comment: Some of the commenters who supported the proposed revisions suggested further changes. One was concerned about exclusion from HIV testing of applicants seeking temporary admission and of applicants under age 15. This same commenter also urged that the medical examinations be required in the United States rather than abroad. Another commenter suggested adding Hepatitis B and other sexually transmitted diseases such as herpes simplex and chlamydia.

Response. Expansion of the proposed HIV testing to include temporary visitors would create unnecessary and undesirable complexities and problems, including expenses and delays in travel. Also, routine testing of applicants under 15 years of age is not justified in view of the extremely low incidence in that age group. However, if there is reason to suspect that an applicant under age 15 could be infected, the revised rule provides that tests may be required.

With regard to the place of testing, medical examinations of visa applicants are conducted in the country of application in order to confirm admissibility and approval prior to departure. Exclusion of applicants with positive HIV testing after arrival in the U.S. would impose a more difficult burden on such individuals than to determine their eligibility before travel expenses are incurred and other plans are made. Moreover, some countries might refuse repatriation to applicants with HIV infection. Finally, any other changes in the list of dangerous contagious diseases would have to be promulgated in another proposed rule.

Comment: One commenter in support of the proposed revision pointed out that the United States admits more immigrants than the rest of the world combined; that failure to require HIV testing may lead some countries to encourage and support emigration of their infected citizens to this country; that it is not within the power and resources of the United States to assume the costs of medical care and support for the world's terminally diseased; and that the exclusion of those with HIV infection is entirely justified in the national interest on public health grounds, based on both medical and economic considerations.

Response: With our current state of knowledge about HIV infection, the Department agrees that the exclusion of applicants with HIV infection is justified.

Comment: The Department of State has expressed concern about the implementation date of the Final Rule in view of the tremendous tasks involved in implementing HIV testing worldwide. For example, medical screening manuals must be prepared, translated into several languages, printed, and distributed to examining physicians; logistical arrangements must be developed and put in place to ship sera from those visa posts that do not have local laboratory facilities to perform HIV testing; and visa applicant interview scheduling procedures will have to be altered to accommodate the extended period of time the medical examination will take with the addition of HIV testing to the examination process.

Response: The Department shares the Department of State's concerns on this issue and, after consultation with the Department of State and the Department of Justice, has decided to establish an implementation date for the amendments to § 34.4(a) of December 1, 1987. It is expected that this will provide sufficient time to develop and have in place the procedures to initiate HIV testing on an essentially worldwide basis.

Regulatory Impact

The Secretary has determined that the revisions will not have a significant impact on a substantial number of small entities and, therefore, does not require preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96–354.

The Secretary also has determined that the revisions do not constitute a "major rule" under Executive Order 12291. Thus, a regulatory impact analysis is not required because it will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions; or

(3) Result in significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 42 CFR Part 34

Human Immunodeficiency Virus (HIV), Medical examination of aliens, Immigration.

Several changes in the regulatory text which were not in the NPRM are of a technical nature to clarify the intended meaning. These technical modifications are: Changing "serologic test" to "serologic testing" in § 34.4(a)(1), § 34.4(a)(1)(iii), § 34.4(a)(2), § 34.4(a)(3)(i), § 34.4(a)(3)(ii), and § 34.4(a)(5); adding "; and" in § 34.4(a)(1)(iii); and adding "for syphilis" in § 34.4(a)(3)(ii). In this same § 34.4(a)(3)(ii), the Department is making a change in response to comments received on the NPRM by replacing the "*Exception*" provision of this Section with the following: "For aliens examined abroad, the serologic testing for HIV must be completed abroad, except that the Attorney General after consultation with the Secretary of State and the Secretary of Health and Human Services may in emergency circumstances permit the serologic testing of refugees for HIV to be completed in the United States." Finally, the **Authority** reference is modified to include a citation to section 518 of Pub. L. 100–71, which was enacted during the comment period. Accordingly, Part 34 of Title 42, Code of Federal Regulations, is amended as set forth below.

Dated: August 18, 1987.

Robert E. Windom,

Assistant Secretary for Health.

Approved: August 25, 1987.

Otis R. Bowen,

Secretary.

PART 34—MEDICAL EXAMINATION OF ALIENS

1. The authority citation for 42 CFR Part 34 is revised to read as follows:

Authority: Sec. 215, 58 Stat. 690, as amended, sec. 234, 66 Stat. 198; 42 U.S.C. 216, 8 U.S.C. 1224; secs. 322, 325, 58 Stat. 696, as amended, 697 as amended, secs. 212, 326, 66 Stat. 182, as amended, 200; 42 U.S.C. 249, 252, 8 U.S.C. 1182, 1226; sec. 518 of Pub. L. 100–71.

2. Section 34.2(b) of Part 34 is revised to read as follows:

§ 34.2 Definitions.

* * * * *

(b) Dangerous contagious disease. Any of the following diseases:

(1) Chancroid.

(2) Gonorrhea.

(3) Granuloma inguinale.

(4) Human immunodeficiency virus (HIV) infection.

(5) Leprosy, infectious.

(6) Lymphogranuloma venereum.

(7) Syphilis, infectious stage.

(8) Tuberculosis, active.

* * * * *

3. Paragraphs (a)(1) introductory text, and (iii), the first sentence of (2), (3), and (5) of § 34.4 are revised to read as follows:

§ 34.4 Scope of examinations.

(a) * * *

(1) *Persons subject to requirement for chest X-ray examination and serologic testing.* Except as provided in paragraph (a)(2) of this section, a chest X-ray examination for tuberculosis and serologic test for syphilis and serologic testing for HIV shall be required as part of the examination of:

* * * * *

(iii) All other applicants for a nonimmigrant visa who are required by a consular authority to have a medical examination if such X-ray examination and serologic testing are considered necessary by the medical examiner; and

* * * * *

(2) *Exceptions.* Neither a chest X-ray examination nor serologic testing for syphilis and HIV shall be required if the alien is under the age of 15: *Provided,* That a tuberculin test may be required where there is evidence of contact with a known case of tuberculosis or other reason to suspect infection with tuberculosis and a chest X-ray examination required in the event of a positive reaction, and serologic testing where there is reason to suspect infection with syphilis or HIV. * * *

(3) *How and where performed.* All X-ray films used in medical examinations performed under the regulations in this part shall be at least 70mm. In case of abnormal findings in the lungs, a full-sized film (approximately 14 x 17 inches; 35.6 x 43.2 cm.) shall be used on which to base the diagnosis. Serologic testing for HIV shall be a sensitive and specific test, confirmed when positive by a test such as the Western blot blood test or an equally reliable test.

(ii) When necessary X-ray and laboratory facilities are not available to the medical examiner, the applicant shall furnish a chest X-ray film, a reading thereof, and a report of serologic testing for syphilis in order that the medical examination may be completed. If X-ray or serologic testing facilities for syphilis necessary for the completion of the examination of a visa applicant or of an applicant for entry are not available in the community where the examination is made, the medical examiner shall so state on the medical examination form and the procedures will be completed at the time of examination at the U.S. port of entry. For aliens examined abroad, the serologic testing for HIV must be completed abroad, except that the Attorney General after consultation with the Secretary of State and the Secretary of Health and Human Services may in emergency circumstances permit the serologic testing of refugees for HIV to be completed in the United States.

(iii) The X-ray reading and reports of serologic testing for syphilis and HIV shall be included in the medical examination report. When the medical examiner's conclusions are based on a study of more than one X-ray film, the medical examination report shall include at least a summary statement of findings in the earlier films, followed by a complete reading of the last film, and dates and details of any laboratory tests for tuberculosis.

* * * * *

(5) *Failure to present records.* If, on examination at the time determination of admissibility is to be made at the U.S. port of entry, no X-ray film or medical examination report, including X-ray reading and serologic testing results for syphilis and HIV, is presented in accordance with the provisions of this paragraph, a medical hold shall be issued pending completion of any necessary examination procedures.

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Health Care Financing Administration

42 CFR Parts 441 and 442

[BQC-045-F]

Medicaid Program; FFP for Services of Long-Term Care Facilities

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This rule revises and clarifies policy on Federal financial participation (FFP) in State Medicaid payments to a long-term care (LTC) facility after the State agency has terminated the provider agreement or failed to renew the agreement when it expires.

These amendments are necessary to establish Medicaid policy that is consistent with sound administrative practice.

EFFECTIVE DATE: These rules are effective September 28, 1987.

FOR FURTHER INFORMATION, CONTACT: Gilda Martin, (301) 597-1399.

SUPPLEMENTARY INFORMATION:

Background

Statutory Provisions

Title XIX of the Social Security Act (the Act) provides for FFP in State Medicaid payments to any LTC facility that has a valid provider agreement (PA) in effect. In order to have a PA, the facility must be certified by the State survey agency as meeting the Federal requirements for participation in the program. (These provisions are in a 42 CFR 440.40(a)(1)(ii), 440.150(a)(2), and 442.30 of the Medicaid rules.)

Medicaid agreements with skilled nursing facilities (SNFs) and intermediate care facilities (ICFs) are limited to terms of not more than 12 months by § 442.15 of the Medicaid rules. These time-limited agreements, which contain an expiration date, may be terminated or not renewed, as explained below.

1. An agreement may be terminated before the expiration date, in any of the following circumstances:

- The State survey agency certifies that the facility no longer meets the requirements for participation in the program.
- HCFA terminates the Medicare agreement with a SNF that participated in both programs.
- HCFA, in validating State survey agency determinations (under sections 1902(a)(33)(B) and 1910(c) of the Act), finds that a SNF or ICF does not meet the requirements for participation and specifies a termination date.

2. The agency may decide not to renew an agreement that has continued in effect until its expiration date, if the State survey agency finds that it cannot certify the facility as continuing to be in compliance with the Federal requirements.

Section 1902(a)(33)(B) of theAct (commonly referred to as the "look-behind" provision) authorizes the Secretary to make an independent determination with respect to a facility's compliance with Federal requirements for participation in the program. However, that provision does not override the State's authority to terminate a PA. In orther words, if, during the HCFA "look-behind" process, the State decides to terminate the agreement, it may do so.

FFP Rules

As a basic rule, FFP is not available in State Medicaid payments made to a facility after its PA has been terminated or has expired and not been renewed. As an exception to the basic rule, FFP may be continued for up to 30 days after termination or expiration, on an individual patient basis, in order to allow time for transfer of residents to other facilities or to alternate care (§ 441.11 of the Medicaid rules). A related rule, in § 442.16, provides that the Medicaid agency may extend a PA for up to 2 months beyond its original expiration date if the State survey

agency gives it written notice, before the agreement expires, that—

• Extension will not jeopardize patients' health and safety; and

• Extension is necessary either to prevent irreparable harm to the facility or hardship to the residents, or because it is impracticable to determine, before the expiration date, whether the facility meets the requirements for participation.

(Since under § 442.16 the agreement would continue in effect, continuation of FFP for the period of up to 2 months does not contravene the basic rule.)

FFP During Appeals

Sections 431.153 and 431.154 of the Medicaid rules set forth the appeals requirements when a Medicaid agency denies, terminates, or does not renew a PA. The Medicaid agency must provide a full evidentiary hearing, either before or after the effective date of the adverse agency action.

If the agency chooses to provide the full hearing after the effective date, it must—

• Provide an informal reconsideration before the effective date; and

• Complete the evidentiary hearing within 120 days after the effective date of the adverse action.

Those rules do not speak to FFP during appeals. However, a Program Regulation Guide (MSA–PRG–11) issued on December 20, 1971, did address the issue. MSA–PRG–11 amended the Medicaid Manual. The amendment reiterated the basic rule to deny FFP during appeals after termination, but permitted FFP to continue when State law provided for the continued validity of the PA during appeal, or the facility was upheld on appeal and State law provided for retroactive reinstatement of the facility.

Problems arose because either State law or State court orders have required Medicaid agencies to continue payments to facilities for long periods of time pending action on administrative or judicial appeals, and State claims for FFP in such payments were disallowed by HCFA. The Departmental Grant Appeals Board (the Board) ruled that the provisions of MSA–PRG–11 apply to State court orders, and that, under 42 CFR 431.250(b)(2), FFP is available in expenditures that are for services provided within the scope of the Federal Medicaid program and are made under a State court order. However, the Board has also held that the "within the scope of the Medicaid program" language limits FFP under MSA–PRG–11 to 12 months after the termination or expiration date of the agreement (since 12 months is the maximum term for an agreement with a SNF or ICF), or the date of the next survey, whichever is earlier.

Notice of Proposed Rulemaking

On October 18, 1985, at 50 FR 42192, we published a proposal to rescind MSA–PRG–11 explicitly and to conform Medicaid policy to Medicare policy, which provides no payment for services during appeals from termination or nonrenewal of a Medicare PA. Under the proposed policy, FFP would not have been available in Medicaid payments for services furnished by a LTC facility after the date the facility's PA was terminated or expired. This policy would have applied even if State law or Federal or State court orders required the State to continue payments to the facility after that date.

The proposed changes would not have affected FFP under §§ 441.11 and 442.16 of the Medicaid rules, which allow continued FFP for up to 30 days for transfer of patients, and permit a single 2-month extension if the specified conditions are met. In addition to revoking MSA–PRG–11, we proposed to add new §§ 442.40 and 442.42—

• To specify that FFP is not available during appeals that are initiated or continued after termination or expiration of a PA;

• To make clear that court-ordered extension of a PA will no longer constitute a basis for FFP; and

• To retain the PRG–11 provision for FFP in a retroactive PA issued by the Medicaid agency when a facility is upheld on administrative appeal or judicial review, but make clear that the agreement must meet the requirements for a valid agreement, as set forth in § 442.30 of the Medicaid rules.

We also proposed to revise § 442.16 to make inescapably clear that it permits extension of an agreement for only one period of up to 2 months.

Discussion of Comments

During the 60 days provided for public comment, we received 18 letters representing 12 States, one county, 4 advocacy groups, and one corporation that owns or administers 120 facilities in 17 States.

The vast majority of comments (at least one in each letter) were concerned with the principal proposed changes, i.e., that FFP (1) would end as of the effective date of termination or expiration of the PA, and (2) would not be available during appeals even if State law or Federal or State court orders required the State to extend the agreement or continue payment to the appellant facility.

Since the changes in the current regulations were minimal (the problem was created by MSA–PRG–11), comments were often addressed to statements made in the preamble regarding the benefits to be derived from the changes and how any undesirable impact on the States could be minimized.

There were also a few comments on—

• The rules for FFP under retroactive agreements issued when the outcome of a hearing or of judicial review is favorable to the facility; and

• Two sections for which no changes were proposed.

Several of the comments discussed below, taken together, convinced us that an alternative considered and rejected while the NPRM was under development is preferable to the proposed total elimination of FFP during appeals. Accordingly, this final rule incorporates the alternative policy and provides for continuation of FFP for up to the 120 days allowed for completion of the administrative appeals procedures. If a hearing decision adverse to the facility were issued before the 120th day, FFP would end as of that date except as available under § 441.11 for up to 30 days for the orderly transfer of patients.

I. Comments on Statements Made in the Preamble to the NPRM

Statement 1: This rule would clarify policy on Federal financial participation in Medicaid payments.

Comment: This is not a clarification. It is a rescission of a long-standing HCFA policy, expressed in MSA–PRG–11.

Response: We believe that MSA–PRG–11, issued December 20, 1971, was revoked by subsequent regulations. The Board ruled otherwise, saying that the PRG remained in effect because we had not taken appropriate steps to revoke it. This final rule explicitly revokes MSA–PRG–11 and by so doing—

• Clarifies policy by resolving the conflict between differing interpretations espoused by HCFA and by the Board; and

• Reduces the need for litigation before the Board, because a "different" interpretation is no longer possible.

Statement 2: The proposed regulations will replace MSA–PRG–11, ensure uniform understanding and application, reduce the need for litigation before the Board and the courts, and facilitate the processing of Medicaid claims.

Comment: The change will not reduce the need for litigation. On the contrary, since court orders will have no effect on HCFA, the State may be forced to seek an injunction or the joinder of HHS in judicial review proceedings in order to

protect itself against the effect of the court's stay of the State's action.

Response: We expect litigation to decrease with policy clearly stated in this final rule and with the States' vigorous enforcement of the hearing requirements, including the 120-day time limit specified in 42 CFR 431.153. Less than vigorous enforcement of the time limit will result in the loss of FFP to the State.

We believe that, in addition, this final rule—

- By allowing FFP for up to 120 days during an administrative appeal, encourages States to expedite and complete administrative hearings within the required period.
- By limiting continuation of FFP to a maximum of 120 days, will discourage State legislatures and courts from requiring State Medicaid agencies to continue payments during long-drawn-out appeals by facilities that might better use their resources and energies to correct the cited deficiencies. (One commenter observed that in his State, appeals could take years.)

Statement 3: Since States know in advance when a provider agreement will be terminated, or when it will not be renewed, we believe they can adequately protect themselves against loss of FFP during provider appeals. They can do so by ensuring that the appeals required by 42 CFR Part 431, Subpart D of the Medicaid rules are provided in a timely manner.

Comments

- The recertification survey of a participating facility should not be started earlier than 90 days before expiration of the PA. It is unreasonable to expect appeals, including judicial review, to be completed within 90 days.
- Appeals cannot be completed before the expiration of an agreement because the length of each step of the appeal and hearings process varies considerably with each situation.
- The policy allows no way for a State to protect itself against loss of FFP.
- The prospect of loss of FFP could discourage States from taking enforcement action.
- A State agency must: (a) Conduct a full survey; (b) document all deficiencies; (c) send the provider written notice of deficiencies; (d) obtain an acceptable plan of correction; (e) conduct follow-up inspections if warranted; (f) develop an agency decertification notice; and (g) provide a full evidentiary hearing.

Response: These comments, and further consideration of the time needed for required procedures, contributed to our decision to continue FFP for up to the 120 days specified in the Medicaid rules for completion of the post-termination evidentiary hearing.

Statement 4: As noted earlier in this preamble, we anticipate several program benefits from this proposed change to current policy. First, we believe that, by discontinuing FFP when the provider agreement is terminated or not renewed, we would encourage more prompt resolution of appeals at the State level and more timely removal of beneficiaries from substandard facilities.

Comments

- The new rules will cause States to bow to political pressures and be less likely to find nursing homes out of compliance rather than motivate them to provide timely and speedy appeals. A hearing can take months and the longer it is dragged out, the more Federal dollars HCFA saves at the State's expense.
- Marginal facilities which might otherwise have been terminated will be allowed to remain in business.
- States will be reluctant to terminate a facility, notwithstanding HCFA's look-behind authority which would allow HCFA to make its own determination of compliance. Furthermore, once the termination is effected by the State, the proposed rule offers no incentive for the State to argue for court validation. If the State is upheld, FFP is disallowed for the appeal period, which may be substantial.
- The proposed policy would discourage aggressive reviews and decertification actions and provide an incentive for States to "settle" all cases in order to avoid lengthy court action.
- The proposed regulation does not give patients additional protections against substandard care because States will be required by court order to continue payments and to delay moving patients. It may, in fact, work to provide less protection. The State will act to protect its citizens, with or without FFP, if there is jeopardy to health and safety. However, in cases which are not clear-cut, States who fear court orders may be reluctant to terminate agreements.
- Financial consequences will become another factor to be considered in determining whether to renew a PA.
- Denial of FFP during the Federally mandated appeals process would have no effect on encouraging a prompt resolution of the appeal.

Response: These comments also contributed to our decision to continue FFP during administrative appeals. We do not believe States will falsify survey reports, or certify deficient facilities as being in compliance even if the deficiencies are not an immediate threat to patient's health and safety. We believe that States wish to ensure quality care and will act to protect the well being of their citizens. The change made in the final rule will—

- Continue FFP for a reasonable period of time to permit States to aggressively enforce the requirements for quality care (rather than bow to political pressures); and
- Encourage them to expedite administrative hearings.

We believe States can and should employ the hearing period to put pressure on substandard facilities to correct deficiencies in order to avoid being excluded from the program.

II. Comments on Regulations

A. Proposed Denial of FFP During Appeals

Comments

- It is unfair to expect States to bear the full burden if payment must be continued during administrative or judicial appeals.
- The real purpose of the amendments is to save Federal funds by shifting costs to the States.
- This is a "penalty" clause that is likely to lead to retention of substandard facilities to prevent loss of FFP.
- State agencies have no control over the time it takes to initiate and complete administrative hearings or judicial reviews.
- The regulation should allow some reasonable time after the date of the proposed termination within which to provide the facility with the due process required by Federal regulations, State laws, and the State and Federal constitutions.
- To allow a minimum of 120 days for a State to hold an evidentiary hearing would be far preferable to total discontinuation of FFP. It could be presumed that a court would be less likely to order continued payments, if the State were upheld in an administrative hearing. It seems quite clear that the motivation behind this rule is purely financial. While the OMB and HCFA have a legitimate and compelling interest in eliminating unjustified Federal expenditures, the countervailing consideration should have sway.

Response: Cost containment is certainly a legitimate goal in the administration of any program. However, this must not obscure the chief goal, which is to improve the quality of care. For that purpose, we need to have deficiencies corrected

promptly, not delayed while appeals drag on for months, occasionally for years. As one State observed, "HCFA should not be paying for substandard care, and neither should the States."

We agree that a court is less likely to order continued payments when the State has been upheld in an evidentiary hearing. For this reason and those stated elsewhere in this preamble, the revised final rule allows FFP to continue during appeals for up to 120 days after the effective date of termination or expiration.

Comment:

• One State reported a high success rate (49 out of 50 cases) in completing administrative appeal proceedings within 120 days after the effective date of termination, as required by current rules. All their determinations were upheld on appeal. That State prohibits *all* new admissions during appeals and bars appellant facilities from participation in rate incentive programs. This State recommended modifying the proposed regulation to permit payment of FFP during the 120 day appeal period, but had no major objection to denial of FFP if the provider carried its appeal to the courts.

Response: We find this comment very encouraging because it shows the feasibility of carrying out the administrative appeals process within a reasonable period of time. It would be counterproductive to punish States that are conducting aggressive compliance reviews and decertification acts by denying FFP during administrative appeals. We believe this State's use of the evidentiary hearing period to compel correction of deficiencies is responsible for this successful policy.

Comments: The proposal ignores—

• The fact that there may not be sufficient State funds to cover full payments; and

• That time would be needed to amend State laws that prohibit payment when FFP is not available.

Response: These comments would apply to any termination of FFP, no matter how much time we afforded to complete appeals. Therefore, we do not believe these comments are valid. The purpose of termination is to enforce the requirements for quality care within a reasonable time. To achieve this goal, some incentive is necessary. We believe that, in addition to the general concerns for the well-being of recipients, the prospect of loss of FFP is a strong incentive.

Comments.

• Greater consideration should be given to the traumatic effect that transfer may have on SNF patients and the additional cost of illness that may result from such trauma.

Congress showed its concern for transfer trauma by enacting the alternative sanction. (This is a statutory amendment that authorizes denial of payment for new admissions as an alternative to terminating the PA when there is not immediate jeopardy to patient health and safety. It is being implemented by other regulations.)

• Present policy outlined in MSA–PRG–11 should be followed in order to meet the Secretary's duty and responsibility to assure that residents receive appropriate, high quality services as required by Public Law 96–360 and the Tenth Circuit Court of Appeals decision in Smith v. Heckler.

Response: We share the commenter's concern regarding mass transfers and published standards for relocating patients displaced by terminations in the Regional Office Manual in November 1979. (These instructions are now found in the Regional Office Manual, Standards and Certification, Part 4, section 4220.) However, we are also concerned with the adverse effect of continuing care in substandard facilities. We must not lose sight of the fact that it is the facility's deficiencies, rather than the lack of FFP, that requires the transfer. When surveyors find deficiencies that lead them to certify noncompliance, we may need to ensure better quality care by subjecting the recipient to a one-time relocation rather than expose him or her to substandard care for the length of an appeal that may drag on for months. Even temporary placement in hospitals approved to provide SNF care, although it may be more costly, may be preferable to allowing the recipient to languish in a substandard facility while the owner continues to receive full payment pending resolution of an appeal.

Comment: Under section 1910(c) of the Act, the Secretary has the power to terminate the participation of LTC facilities found out of compliance. When that happens, unless there is a finding of jeopardy to health and safety, the law and regulations provide for the PA to remain in effect until the facility has had an opportunity to contest the Secretarty's determination. (If the PA remains in effect, FFP is assumed.) A rule denying FFP when the State makes the same determination is inconsistent with the spirit and perhaps the letter of the law covering a termination by the Secretary.

Response: A termination under section 1910(c) of the Act is the Secretary's finding of noncompliance in the face of a State finding of compliance. Thus, if the facility appeals HCFA's finding, HCFA is defending its finding of noncompliance in opposition to the facility and to the State survey agency finding. Congress saw fit to specifically provide that the PA remain in effect pending a provider's administrative appeal in that situation. There is no similar statutory requirement for Federal matching when the State itself finds a facility out of compliance and continues payment after the effective date of termination or expiration.

Comment: One State suggested that LTC providers be given the option of receiving payment during appeals and be required to refund such payments if the hearing decision is adverse to the facility.

Response: States are free to take this action but should consider recovery problems. A facility that receives an adverse decision after a lengthy appeal could be forced into bankruptcy when it is required to refund a large sum of money. The Consolidated Omnibus Budget Reconciliation Act (COBRA, Pub. L. 99–272, enacted April 7, 1986) precluded recovery of the Federal share of State expenditures if the State is unable to recover from a bankrupt provider. Therefore, HCFA will not match State expenditures beyond 120 days if a State adopts the suggested procedure. (If the State chooses to continue payments to a provider subject to recovery if the decision is adverse to the facility, the Federal share of any recovery of expenditures must be returned to HCFA for the period during which FFP was provided.)

B. FFP Not Available in Post-Termination Payment Even When Ordered by a Court

Comments 1 and 2

• FFP should be continued during the period of a Federal or State court order that requires either the continuation of the agreement or continuation of payments.

• FFP should be available as long as the State is making a good faith effort to keep litigation moving.

Response: This is the position of PRG–11, issued in 1971. As discussed above, it has not worked to improve quality of care because State administrative and judicial procedures have permitted protracted appeals. We must have time limits on appeals to force the providers to come into compliance quickly or be terminated from the program. If the State provides a high quality administrative appeal under § 431.153, we expect any subsequent court procedures will be of short duration. We believe that State legislatures and courts

will be less likely to require continuation of payments if the State has been upheld in an evidentiary hearing and if they know that there will be no FFP beyond the 120 days of an administrative appeal. If courts do not continue payments, a deficient facility will have an additional incentive to correct instead of litigate.

Comments 3 and 4:

• The commenter questioned whether the Secretary has the authority to disallow continuation of FFP where a court orders extension of a PA or requires a State to continue payments.

• This rule appears to be inconsistent with other Medicaid regulations which recognize the precedence of judicial decisions.

Response: A court cannot order compliance by an entity that is not a party to the suit. The commenter apparently did not realize that this rule applies only to suits in which HHS is not a party. As pointed out in the preamble to the NPRM, one of the purposes of the proposed rule was to change the meaning of "within the scope of the Federal Medicaid program" as it appears in § 431.250(b). The effect of this final rule is to change the meaning to "up to 120 days" instead of "up to 12 months" as it was under the Board's interpretation, or an unlimited period, as MSA–PRG–11 appeared to permit. The new § 442.40 clarifies the meaning of § 431.250(b) when providers appeal the termination or nonrenewal of a PA.

Comment 5: Residents may sue the State so that they may continue to stay in a facility (even though it is decertified) and have their care paid through Medicaid funds. If ordered by a court the State may have to pay the States' share of Medicaid funds and possibly the Federal share.

Response: The U.S. Supreme Court has held that Medicaid recipients do not have the right to care in a specific facility [O'Bannon v. Town Court Nursing Center, 447 U.S. 773 (1980)]. The Court stated that the Medicaid Act does not confer a right on a recipient to continue to receive benefits for care in a facility that has been decertified. Moreover, although the regulations protect patients by limiting the circumstances under which a facility may transfer or discharge a Medicaid recipient, they do not limit the Government's right to make transfer necessary by decertifying a facility. The Court viewed the imposition of minimum standards of care as conferring an indirect benefit on patients which outweighed any adverse impact that might result from having to relocate.

Comment 6: Courts may enjoin HHS from terminating reimbursement to the State pending appeal, particularly if enforcement by the State has been stayed because there is no other action that will prevent irreparable harm to the State. (*Maxwell* v. *Wyman*, 478 F. 2d 1329, 2d Circuit, 1973).

Response: We do not believe that case limits the Department's authority to set reasonable limits for the availability of FFP during provider appeals. Rather, it interpreted and applied MSA–PRG–11 as providing FFP during the pendency (no matter how long) of provider appeals under specified circumstances.

Comment 7: When HCFA is the agency responsible for granting and terminating PAs, as it is for Medicare SNFs, and is enjoined from terminating Medicare participation for services furnished by a SNF, FFP should continue for Medicaid payments to the facility.

Response: If HCFA is a party to the suit (as it necessarily would be in this situation) and a Federal court enjoins HCFA from terminating the PA of a Medicare SNF, HCFA would obey the order. FFP in the Medicaid SNF payments, even if not specifically ordered by the court, would continue under 42 CFR 442.20(a), which requires that a Medicaid PA with a SNF that participates in both programs be for the same duration as the Medicare PA. However, if a facility that is also an ICF has appealed its Medicare SNF termination and its Medicaid ICF termination, FFP would not be available in Medicaid payment for ICF services unless the Federal court specifically ordered HCFA to continue FFP in those payments. There is no regulation corresponding to 42 CFR 442.20 for ICF facilities because ICF services are not offered under the Medicare program.

Comment 8: All decertification actions should be filed in Federal courts so that Federal and State officials could work together for a speedy resolution. State court actions require the State to bring the Federal agency into the case as an indispensable party. Double litigation could be avoided. Federal matching would be continued until the court action is resolved.

Response: This rule pertains only to decertification by the State of its own volition, not to terminations a State is required to make when HCFA terminates a SNF's Medicare agreement. Although we believe that the proper appeal of a State administrative decision is to a State court, the Federal government cannot regulate this matter. Accordingly, the rule specifies only that FFP is not available during judicial appeals.

Comment 9: HCFA should add language to the regulations stating the FFP will continue if HCFA is enjoined by a Federal court from stopping payment.

Response: A regulation is not needed to require that HCFA obey the order of a Federal court when HCFA is a party to the suit. It is sufficient to say that FFP is not available if a State or Federal court only orders the State to continue payments.

C. FFP in Retroactive Provider Agreements

Comment 1

• The rule should be modified to make retroactive FFP available if the facility comes into compliance during the appeal even if it is not upheld. Many facilities are recertified during or at the end of the 120-day appeal period because they have come into compliance by significantly improving their operations but have not been upheld on appeal.

Response: Under the final rule, there will be no break in FFP for a facility that appeals before termination of its PA is effective, and comes into compliance during the 120-day appeal period. The new PA will be effective on the day the facility meets all requirements or submits an approvable plan of correction, as provided in § 442.13 of the Medicaid rules. If the facility comes into compliance after the end of the 120-day period allowed for appeal, no FFP is available from the end of that period until the effective date of the new PA.

Comments 2 and 3

• Under the proposed rule, FFP would be denied for a facility that receives a favorable resolution of its appeal and a retroactive reinstatement of its PA under court order.

• The proposed rule appears to allow HCFA broad discretion to allow or deny FFP in a retroactive PA issued when the outcome of the appeal is favorable to the provider.

Response: Generally, FFP will be available in retroactive PAs. However, the look-behind authority specified in § 442.30 of the Medicaid rules is not narrowed by these rules, as is made clear by new § 442.42(b).

Whenever a decision is made to reinstate a PA retroactively, HCFA can apply the "look behind" authority under § 442.30 to decide whether Federal certification requirements have been met. This authority extends to any reinstatement decision, whether made by the State survey agency, a hearing officer, or State or Federal court. For example, if a hearing officer orders

retroactive reinstatement based on the facility's coming into compliance during the 120-day hearing period, HCFA may "look behind" to confirm whether the facility has met all Federal requirements, or submitted an approvable plan of correction, within the 120-day period. FFP will be available if the hearing officer has ordered retroactive reinstatement of the PA and properly set the effective date within the hearing period. FFP will not be available if HCFA finds that it was not proper to set the effective date within the hearing period because the facility had not met the basic requirements of 42 CFR 442.13 at that time.

Note.—"Look-behind" under § 442.30 of the Medicaid rules determines whether a State survey and certification decision met Federal requirements. If it did not, a provider agreement based on that survey and certification decision is invalid, and FFP is not available for services furnished under that agreement. The "look-behind" authority of this provision does not address whether a facility actually met the substantive requirements for certification. It only examines the procedures used by the States.

Comment 4: It is inconsistent for HCFA to require appeals and remain free to ignore the outcome. If HCFA does not follow the appeal decision and States refuse to pay providers because HCFA is withholding FFP, the provider has been denied due process. If the States comply with an administrative decision, even though the HCFA has chosen to withhold FFP, the required appeal becomes a penalty provision and a cost containment measure for HCFA. Since HCFA imposed the hearing requirements, HCFA should be bound by a hearing decision.

Response: HCFA is not free to ignore the outcome of a hearing and will match payments made under a retroactive agreement if the agreement was properly ordered. As noted by another State, many facilities are recertified at the end of the evidentiary hearing not because they win their appeals but because they substantially improve their operations. Thus, HCFA must and will use its look-behind authority to deny FFP for a retroactive agreement made effective prior to the date compliance is established. To allow FFP under a retroactive agreement for a period when compliance has not been established would be a neglect of HCFA's duty. Under the final rule, if the facility comes into compliance within the 120-day appeal period, there would be no break in FFP.

Comment 5: It is not clear if HCFA will be exercising substantive "look-behind" authority in refusing to honor administrative or court decisions. If it is, then the procedural protections of section 1910(c) of the Act should be triggered and FFP should continue.

Response: These regulations do not address situations in which HCFA terminates participation because it finds that the facility does not meet Federal requirements. They apply only when a State has terminated a facility of its own volition. HCFA can apply the look-behind authority of 42 CFR 442.30 as explained above in the response to comments 2 and 3.

D. Miscellaneous Comments

Some of the comments dealt not with the proposed changes in the regulations, but with a definition, and with other rules for which no change was proposed.

1. Definition of "Effective date of termination."

Comment: The new rule leaves the point at which termination occurs unanswered because under this State's law, termination is not final until the provider has had a full evidentiary hearing and if that decision is stayed by a court, termination does not take effect.

Response: The effective date of "termination" (and of "expiration"), as defined in § 442.40(a), establishes a uniform point from which the 120-day period prescribed for completing the administrative hearing is counted. This provision applies uniformly in all States for determining the availability of FFP during a facility's appeal of the State's finding of noncompliance.

The following comments were addressed to §§ 441.11 and 442.16, explained earlier in this preamble under the topic "FFP rules". In the preamble to the proposed rule, we discussed these sections to show how adverse effects on recipients could be mitigated by proper use of the two-month extension of the PA and the 30 day continuation of FFP for relocation of patients. We proposed no changes in these sections.

Comment 1: Two months following decertification is needed to relocate a large number of nursing home residents.

Response: As noted above, the regulation section providing time for the relocation of patients is § 441.11. Since no change was proposed with respect to this section, we are unable to address the commenter's concerns at this time.

Comment 2: States should be allowed to implement 42 CFR 442.16 and 441.11 without the need to request these exceptions from the HCFA regional office. With a 94 percent occupancy rate, we find 60 days adequate for orderly relocation of patients when necessary, but believe the time lost in requesting these exceptions is unnecessary.

Response: There is nothing in § 441.11 or § 442.16 that requires requesting exceptions from the HCFA regional office for Medicaid-only SNFs or ICFs. For a SNF that participates in both programs, HCFA regional staff makes the determination for the extension of the Medicare PA, and this, under § 442.20, applies equally to the Medicaid PA. The State Medicaid agency determines the allowability of a 60 day extension under § 442.16 of agreements with ICFs and Medicaid-only SNFs. The continuation of FFP for up to 30 days under § 441.11 is to be used for patient transfers and is available as long as the requirements of that section are met.

Provisions of the Final Rule

As indicated in the discussion of comments, this final rule differs from the proposed rule in that it provides for FFP to continue, after the effective date of termination or expiration, for up to the 120 days allowed for completion of the administrative hearing. We have also made two additional changes.

1. We have revised paragraph (b) of § 441.11 to make clear that, if the facility appeals the termination or nonrenewal, the 30-day period would begin when there is a hearing decision that upholds that agency action. (It would be unreasonable to expect the facility to initiate transfer while its appeal is pending.)

2. We have added, to proposed § 442.40, a new paragraph (b) to make clear that §§ 442.40 and 442.42—

- Apply only to termination and nonrenewal actions that the State takes of its own volition, not to such actions when it is required to take them with respect to a SNF that has had its Medicare provider agreement terminated or not renewed by HCFA; and
- Apply to terminations and nonrenewals that are effective on or after the effective date of the final rule, with a special adaptation for termination or nonrenewal actions that were effective before that date.

In summary, under the final rule, FFP could continue for not more than 150 days after the effective date of termination or expiration of the provider agreement. (The 120 days allowed for the administrative appeals process, plus the 30 days allowed for transfer of the patients or residents to other facilities or to alternate care, equal 150 days.)

MSA–PRG–11 is revoked.

Regulatory Impact Statement

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any regulations that are

likely to meet criteria for a "major rule". A major rule is one that would result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or any geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, consistent with the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 through 612), we prepare and publish a regulatory flexibility analysis unless the Secretary certifies that the regulations will not have a significant economic impact on a substantial number of small entities. For purposes of the Regulatory Flexibility Act, we treat all providers as small entities; States and individuals are not considered small entities.

Our proposed rule of October 18, 1985 did not include an economic impact analysis or a regulatory flexibility analysis. We considered that the economic effect would not reach $100 million and that the proposed rules would have a generally favorable impact, since they would—

- Encourage more prompt resolution of appeals at the State level and more timely removal of beneficiaries from substandard facilities;
- Ensure uniform understanding and application of the rules among States and providers and thus reduce the need for litigation before the Board and the courts;
- Facilitate the processing of Medicaid claims so that the workload would be reduced and there would be greater consistency in our determination of payments to States for SNF and ICF services; and
- Ensure that we do not continue to share in payments to facilities that have serious deficiencies.

One State noted that the proposal would have a substantial impact on States because it would deny FFP even during the 120-day period allowed for administrative appeal of terminations. We believe that this final rule, by providing FFP for up to the 120 days allowed for administrative appeals, will indeed encourage States to speed up their hearing procedures. State costs will increase and corresponding Federal savings will result only if State law or State court orders require the State Medicaid agency to continue payments during judicial appeals or administrative hearings which are allowed to continue beyond 120 days. If the hearing decision is reached during the 120 days upholding the facility, it will be reinstated and FFP will continue. If the hearing decision upholds the agency's termination action, the patients will be moved to other complying facilities and FFP will be available for those services. In summary—

- Under the old rules the FFP would have been available for up to 12 months.
- Under the new rules FFP is available for up to 120 days.
- To the extent that payment to a facility extends beyond 120 days, State law or State court orders may require States to pay the full cost of services for any patients remaining in facilities after termination of FFP. However, we believe there will be no major increase in costs for State agencies, because States will be able to expedite administrative and judicial appeals procedures.

In a recent year, our records indicate that States terminated only 39 facilities. An unknown number came into compliance during the course of their appeal. With the added incentive of FFP for up to 120 days for administrative appeals, rather than 12 months for administrative and judicial appeals, we believe that virtually all States will conform State law and appeal procedures to enable compliance with the time limit for administrative appeals and that judicial hearings will be speedily concluded after quality administrative appeals. Several State commenters viewed 120 days as a reasonable and adequate time limit for appeals. It is impossible to predict a definitive amount of Federal savings and the corresponding State costs. However, based on recent terminations, we believe the amount cannot be in excess of $100 million annually.

Only by expediting appeals procedures (judicial review as well as administrative hearings) can any real "savings" be achieved and, even more important, beneficiaries be protected against remaining too long in substandard facilities.

From the above discussion, it is clear that the effect of these rules on the general economy is not such as to require an economic impact analysis. Since the effect of the new rules is to require the State to pay full costs after FFP is discontinued, we have determined, and the Secretary certifies that these final rules will not have a substantial impact on a significant number of small entities. Therefore, we have not prepared either an impact analysis under E.O. 12291, or a regulatory flexibility analysis.

Paperwork Reduction Act

These regulations will impose no new reporting or recordkeeping requirements that are subject to clearance by the Office of Management and Budget.

List of Subjects

42 CFR Part 441

Family planning, Grant programs-health, Infants and children, Medicaid, Penalties, Prescription drugs, Reporting and recordkeeping requirements.

42 CFR Part 442

Grant programs-health, Health facilities, Health professions, Health records, Medicaid, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

42 CFR Chapter IV is amended as set forth below.

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

1. The authority citation continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

2. Section 441.11 is revised to read as follows:

§ 441.11 Continuation of FFP for institutional services.

(a) *Basic conditions for continuation of FFP.* FFP may be continued for up to 30 days after the effective date of termination or expiration of a provider agreement, or after an administrative hearing decision that upholds the agency's termination or nonrenewal action, if the following conditions are met:

(1) The Medicaid payments are for recipients admitted to the facility before the effective date of termination or expiration.

(2) The Medicaid agency is making reasonable efforts to transfer those recipients to other facilities or to alternate care.

(b) *When the 30-day period begins.* The 30-day period begins on either of the following:

(1) The effective date of termination or nonrenewal of the facility's Medicare provider agreement by HCFA, or of its Medicaid provider agreement as instructed by HCFA.

(2) The later of—

(i) The effective date of termination or nonrenewal of the facility's Medicaid provider agreement by the Medicaid agency on is own volition; or

(ii) The date of issuance of an administrative hearing decision that

upholds the agency's termination or nonrenewal action.

(c) *Services for which FFP may be continued.* FFP may be continued for any of the following services, as defined in Subpart A of Part 440 of this chapter:

(1) Inpatient hospital services.

(2) Inpatient hospital services for individuals age 65 or older in an institution for mental diseases.

(3) Skilled nursing facility services for individuals age 21 or older.

(4) Skilled nursing facility services for individuals age 65 or older in an institution for mental diseases.

(5) Intermediate care facility services.

(6) Intermediate care facility services for individuals age 65 or over in an institution for mental diseases.

(7) Inpatient psychiatric services for individuals under age 21.

PART 442—STANDARDS FOR PAYMENT FOR SKILLED NURSING AND INTERMEDIATE CARE FACILITY SERVICES

3. The authority citation for Part 442 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

4. In § 442.16, the introductory statement is revised to make clear that only one extension is permitted, to read as follows:

§ 442.16 Extension of agreement.

A Medicaid agency may extend a provider agreement for a single period of up to 2 months beyond the original expiration date specified in the agreement if it receives written notice from the survey agency, before the expiration date of the agreement, that extension will not jeopardize the patients' health and safety, and—

5. New §§ 442.40 and 442.42 are added, to read as follows:

§ 442.40 Availability of FFP during appeals.

(a) *Definitions.* As used in this section—"*Effective date of expiration*" means the date of expiration originally specified in the provider agreement, or the later date specified if the agreement is extended under § 442.16; and "*Effective date of termination*" means a date earlier than the expiration date, set by the Medicaid agency when continuing participation until the expiration date is not justified, because the facility no longer meets the requirements for participation.

(b) *Scope, applicability, and effective date*—(1) *Scope.* This section sets forth the extent of FFP in State Medicaid payments to a SNF or ICF after its provider agreement has been terminated or has expired and not been renewed.

(2) *Applicability.* (i) This section and § 442.42 apply only when the Medicaid agency, of its own volition, terminates or des not renew a provider agreement, and only when the survey agency certifies that there is no jeopardy to recipient health and safety. When the survey agency certifies that there is jeopardy to recipient health and safety, or when it fails to certify that there is no jeopardy, FFP ends on the effective date of termination or expiration.

(ii) When the State acts under instructions from HCFA, FFP ends on the date specified by HCFA (HCFA instructs the State to terminate the Medicaid provider agreement when HCFA (A) terminates the Medicare provider agreement with a SNF, or, (B) in validating a State survey agency certification, determines that a SNF or ICF does not meet the requirements for participation.)

(3) *Effective date.* This section and § 442.42 apply to terminations or expirations that are effective on or after September 28, 1987. For terminations or nonrenewals that were effective before that date, FFP may continue for up to 120 days from September 28, 1987, or 12 months from the effective date of termination or nonrenewal, whichever is earlier.

(c) *Basic rules.* (1) Except as provided in paragraphs (d) and (e) of this section, FFP in payments to a SNF or ICF ends on the effective date of termination of the facility's provider agreement, or if the agreement is not terminated, on the effective date of expiration.

(2) If State law, or a Federal or State court order or injunction, requires the agency to extend the provider agreement or continue payments to a facility after the dates specified in paragraph (d) of this section, FFP is not available in those payments.

(d) *Exception: Continuation of FFP after termination or expiration of provider agreement*—(1) *Conditions for continuation.* FFP is available after the effective date of termination or expiration only if—

(i) The evidentiary hearing required under § 431.153 of this chapter is provided by the State agency after the effective date of termination or expiration (or, if begun before termination or expiration, is not completed until after that date); and

(ii) Termination or nonrenewal action is based on a survey agency certification that there is no jeopardy to recipients' health and safety.

(2) *Extent of continuation.* FFP is available only through the earlier of the following:

(i) The date of issuance of an administrative hearing decision that upholds the agency's termination or nonrenewal action.

(ii) The 120th day after the effective date of termination of the facility's provider agreement or, if the agreement is not terminated, the 120th day after the effective date of expiration. (If a hearing decision that upholds the facility is issued after the end of the 120-day period, when FFP has already been discontinued, the rules of § 442.42 on retroactive agreements apply).

(e) *Applicability of § 441.11.* If FFP is continued during appeal under paragraph (d) of this section, the 30-day period provided by § 441.11 of this chapter would not begin to run until issuance of a hearing decision that upholds the agency's termination or nonrenewal action.

§ 442.42 FFP under a retroactive provider agreement following appeal.

(a) *Basic rule.* Except as specified in paragraph (b) of this section, if a SNF or ICF is upheld on appeal from termination or nonrenewal of a provider agreement, and the State issues a retroactive agreement, FFP is available beginning with the retroactive effective date, which must be determined in accordance with § 442.13.

(b) *Exception.* This rule does not apply if HCFA determines, under § 442.30, that the agreement is not valid evidence that the facility meets the requirements for participation. This exclusion applies even if the State issues the new agreement as the result of an administrative hearing decision favorable to the facility or under a Federal or State court order.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: February 3, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: July 28, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-19795 Filed 8-27-87; 8:45 am]

BILLING CODE 4120-01-M

Proposed Rules

Federal Register
Vol. 52, No. 167
Friday, August 28, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 3, 208, 236, 242, and 253

[Order No. 1211-87]

Aliens and Nationality; Asylum and Withholding of Deportation Procedures

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends the procedures to be used in determining asylum under section 208 and withholding of deportation under section 243(h) of the Immigration and Nationality Act, as amended by the Refugee Act of 1980. The rule modifies the interim rule published on June 2, 1980 (45 FR 37392). These changes are proposed in response to comments received on the interim rule and in light of experience gained in administering the provisions of the Refugee Act of 1980 over approximately a six year period.

The proposed rule is intended to enhance uniformity and efficiency in the process for determining eligibility for asylum or withholding of deportation. The rule recognizes that the decision to grant asylum or withholding of deportation to an alien is inherently a humanitarian act by the United States, distinct from the normal operation and administration of the immigration laws. The procedures for adjudicating asylum and withholding of deportation cases are therefore structured in a nonadversarial manner and are designed to elicit and take into account all relevant information in light of the legal structure set forth in the Refugee Act of 1980.

The rule proposes to place authority for asylum and withholding of deportation decisions in a corps of specially trained Immigration and Naturalization Service (INS) Asylum Officers under the direct supervision of the Assistant Commissioner, Office of Refugee, Asylum, and Parole.

Applicants for asylum or withholding of deportation would have a nonadversarial interview by an Asylum Officer within INS. In evaluating the application, the Asylum Officer would have the benefit of comments provided by the Bureau of Human Rights and Humanitarian Affairs of the Department of State as well as information provided by the Department of Justice.

Under the interim rule published on June 2, 1980, asylum and withholding of deportation decisions are made by District Directors of the Immigration and Naturalization Service and are not appealable. Under the proposed rule, asylum and withholding of deportation decisions by an Asylum Officer will also not be directly appealable, except in certain unusual circumstances. As under current regulations, however, individuals denied asylum or withholding of deportation will still be able to have their claims of persecution reviewed if they appeal any subsequent exclusion or deportation order to the Board of Immigration Appeals.

The rule clearly articulates the burden of proof that an applicant for asylum or withholding of deportation must meet to establish eligibility for such a grant. Certain evidentiary considerations are established for purposes of administrative convenience and consistency in assessing the claims of persons seeking asylum or withholding of deportation.

DATE: Written comments must be submitted on or before October 27, 1987.

ADDRESS: Please submit written comments in duplicate to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Room 2011, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Richard A. Sloan, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 Eye Street NW., Washington, DC 20536. Telephone: (202) 633-3048.

For Specific Information: Ralph Thomas, Deputy Assistant Commissioner, Refugee, Asylum, and Parole, Immigration and Naturalization Service, 425 Eye Street NW., Washington, DC 20536. Telephone: (202) 633-5463; or

Robert C. Hill, Deputy Director and Counsel, Asylum Policy and Review Unit, Department of Justice, 10th and Constitution Ave., NW., Room 6213, Washington, DC 20530. Telephone: (202) 633-2415; or

Gerald Hurwitz, Counsel to the Director, Executive Office for Immigration Review, 2 Skyline, 5203 Leesburg Pike, Falls Church, Virginia 22041. Telephone: (703) 756-6470.

SUPPLEMENTARY INFORMATION: The Refugee Act of 1980 created a statutory basis for asylum in the United States and made withholding of deportation for those who qualify mandatory rather than discretionary. Eligibility for asylum requires a showing of actual persecution or a "well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." Entitlement to withholding of deportation requires a showing that the life or freedom of the applicant would be threatened in the country of proposed deportation on account of race, religion, nationality, membership in a particular social group, or political opinion. Interim regulations establishing procedures and standards governing applications under the provisions of the Refugee Act of 1980 were published on June 2, 1980.

The interim regulations provide that an advisory opinion must be obtained from the Bureau of Human Rights and Humanitarian Affairs of the Department of State prior to a decision on the applicant's claim. Other provisions of the interim regulations deal with filing the application, the place of filing, employment authorization, burden of proof, interview of the applicant, the form and content of a decision on an asylum or withholding of deportation application, extension or renewal of asylum status, definitions of "firmly resettled" and "country of habitual residence," termination of asylum status, and procedures and standards governing applications made during or subsequent to deportation proceedings.

To assist individuals or organizations wishing to comment on the proposed rule, the following outline of significant changes made in the interim rule is provided:

(1) The proposed rule would create the position of Asylum Officer within the Office of Refugee, Asylum, and Parole in INS. Applications for asylum

or withholding of deportation would be referred to an Asylum Officer who would conduct an interview and render a decision.

(2) The proposed rule requires the Assistant Commissioner, Office of Refugee, Asylum, and Parole, to assist the Asylum Policy and Review Unit to compile and disseminate to Asylum Officers information concerning the persecution of persons in other countries. With notice to an applicant, Asylum Officers could rely on such information in deciding an asylum or withholding of deportation application. This collection and dissemination of information about country conditions will increase the accuracy and consistency of asylum and withholding of deportation decisions.

(3) The proposed rule provides for confidentiality of applications by prohibiting disclosure of information submitted by the applicant. Exceptions to this rule would lie where the applicant consents to disclosure, where it is determined that certain national or international agencies or courts need to examine the information in connection with adjudication of a claim, in legal proceedings of certain types, or in United States Government investigations.

(4) The proposed rule requires that an applicant for asylum establish that he is a refugee under section 101(a)(42) of the Immigration and Nationality Act. That burden is met when the applicant establishes by a preponderance of the evidence that he has suffered actual persecution or that he has a well-founded fear of persecution in that there is a reasonable possibility that a person in the applicant's position would be persecuted if returned to his country of nationality or last habitual residence.

The section on burden of proof reflects the Supreme Court's recent decision in the case of *Immigration and Naturalization Service* v. *Cardoza-Fonseca*, _____U.S._____, 107 S. Ct. 1207 (1987). The section is drafted to recognize that the flight or defection of a bona fide refugee from a country that engages in widespread persecution may leave him in a difficult position to corroborate his claim. Accordingly, under the proposed statement of the burden of proof, an applicant may show that a person in his position, as opposed to himself specifically, could be subject to persecution. Moreover, the proposed regulations provide that the applicant's uncorroborated testimony, if credible, may satisfy the burden of proof.

In evaluating whether an applicant has sustained the burden of proof, the proposed rule requires the Asylum Officer to give due consideration to evidence establishing that the government of the applicant's country of nationality or habitual residence persecutes groups of persons similarly situated to the applicant or persecutes its nationals or residents who attempt to leave the country or to seek asylum in another country.

(5) The proposed rule requires Asylum Officers to grant employment authorization to asylum or withholding of deportation applicants whose applications are not frivolous or filed primarily for the purpose of delay.

(6) The proposed rule would make comments by the Bureau of Human Rights and Humanitarian Affairs optional in asylum or withholding of deportation cases, at the option of the Department of State in each case.

(7) The proposed rule includes provisions for admission of an asylee's spouse and children, either accompanying or following to join. The provisions address application, eligibility, relationship, procedures, denial, burden of proof, and duration of asylum status.

(8) The new procedures apply only to applications for asylum or withholding of deportation filed on or after the date the proposed rule becomes final.

(9) The proposed rule provides for review of selected asylum decisions by the Office of the Deputy Attorney General, assisted by the Asylum Policy and Review Unit in the Office of Legal Policy, and by the Assistant Commissioner, Office of Refugee, Asylum and Parole.

(10) Decisions by Asylum Officers will be binding upon Immigration Judges in related exclusion or deportation proceedings and will be incorporated into Immigration Judge's decisions in such cases. Except in certain unusual circumstances, appeal from an asylum or withholding of deportation decision will lie with the Board of Immigration Appeals only after the decision has been incorporated into an Immigration Judge's decision in an exclusion or deportation proceeding.

Other provisions would be revised to make them consistent with changes outlined above.

The proposed rule would facilitate the asylum and withholding of deportation process in a manner consistent with the language and intended effect of the Refugee Act of 1980.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule, if promulgated, will not be a major rule within the meaning of section 1(b) of E.O. 12291. The information collections in this rule have been approved under the Paperwork Reduction Act.

List of Subjects

8 CFR Part 3

Administrative practice and procedures.

8 CFR Part 208

Administrative practice and procedures, Aliens, Asylum, Immigration, Jurisdiction.

8 CFR Part 236

Administrative practice and procedures, Aliens, Immigration.

8 CFR Part 242

Administrative practice and procedures, Aliens, Detention, Deportation.

8 CFR Part 253

Aliens, Asylum, Crewmen, Parole.

Accordingly, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as follows:

1. The authority citation for Part 3 continues to read as follows:

Authority: Secs.103, 292, 66 Stat. 173, 235, 8 U.S.C. 1103, 1362, sec. 2, Reorg. Plan No. 2 of 1950, 15 FR 3173, 3 CFR 1949–1953 Comp., p. 1003, unless otherwise noted.

PART 3—[AMENDED]

1A. In Part 3, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW, § 3.14 is amended to remove "(a)" before the first paragraph and to remove paragraph (b).

2. Part 208, ASYLUM PROCEDURES, is revised to read as follows:

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF DEPORTATION

Sec.

Sec.

Authority: 8 U.S.C. 1103, 1158, 1226, 1252, 1253, and 1283.

§ 208.1 General; jurisdiction.

(a) This Part shall apply to all applications for asylum or withholding of deportation that are filed on or after the effective date of this rule. No application for asylum or withholding of deportation that has been filed with a District Director or Immigration Judge prior to the effective date of this rule may be reopened or otherwise reconsidered under this rule except by motion of an Asylum Officer. The adoption of this rule shall not affect the finality or validity of any prior decision by District Directors and Immigration Judges in any asylum or withholding of deportation case.

(b) The Office of Refugee, Asylum, and Parole shall have exclusive jurisdiction over applications for asylum and withholding of deportation. All such applications shall be decided by Asylum Officers under this rule.

(c) Asylum Officers shall be supervised by the Assistant Commissioner, Office of Refugee, Asylum, and Parole. There shall be attached to the Office of Refugee, Asylum, and Parole such number of employees as the Commissioner, upon recommendation from the Assistant Commissioner, shall direct. The Assistant Commissioner shall be responsible for general supervision and direction in the conduct of the asylum program, including evaluation of the performance of the employees attached to the Office.

(d) The Assistant Commissioner shall assist the Deputy Attorney General and the Asylum Policy and Review Unit of the Department of Justice, in coordination with the Department of State, to compile and disseminate to Asylum Officers information concerning the persecution of persons in other countries on account of race, religion, nationality, membership in a particular social group, or political opinion. The *Country Reports on Human Rights Practices* prepared annually by the Department of State shall be the principal source of such information and may be supplemented by additional reports on country conditions provided by the Department of State on request, as well as any other information relevant to the legal determination of eligibility for asylum.

§ 208.2 Form of application.

(a) An application for asylum or withholding of deportation shall be made on Form I–589 (Request for Asylum in the United States). The applicant's spouse and children as defined in section 101 of the Act may be included on the application if they are in the United States. An application shall be accompanied by one completed Form G–325A (Biographical Information) and one completed Form FD–258 (Fingerprint Card) for every individual included on the application who is fourteen years of age or older; additional supporting material may also accompany the application. Forms I–589, G325A, and FD–258 shall be available from the Office of Refugee, Asylum, and Parole, each District Director, and the Offices of Immigration Judges.

(b) An application for asylum shall be deemed to constitute at the same time an application for withholding of deportation, pursuant to §§ 208.15, 236.3, and 242.17 of this chapter.

§ 208.3 Filing the application.

(a) *With the District Director.* Except as provided in paragraphs (b), (d), and (e) of this section, applications for asylum or withholding of deportation shall be filed with the District Director having jurisdiction over the place of the applicant's residence or over the port of entry from which the applicant seeks admission to the United States. The District Director shall immediately forward the application to an Asylum Officer with jurisdiction in his district. The Asylum Officer shall forward a copy of the completed application, including any supporting material subsequently received pursuant to § 208.8(d), to the Office of Refugee Asylum and Parole, the Asylum Policy and Review Unit of the Department of Justice, and the Bureau of Human Rights and Humanitarian Affairs of the Department of State.

(b) *Applications pending completion of exclusion or deportation proceedings.* If exclusion or deportation proceedings have been commenced against an alien, any application for asylum or withholding of deportation from that alien shall be filed with the Office of the Immigration Judge. That Office shall refer such application to an Asylum Officer who shall process the application pursuant to paragraph (a) of this section. No final decision shall be rendered by the Immigration Judge in such a proceeding until a decision has been rendered by the Asylum Officer on the asylum or withholding of deportation application and that decision, together with the record, has been returned to the Immigration Judge to be incorporated into the exclusion or deportation decision pursuant to § 208.17(b).

(c) *Applications after completion of exclusion or deportation proceedings.* If exclusion or deportation proceedings before an Immigration Judge have been completed and a final exclusion or deportation order has been entered pursuant to 8 CFR 3.37, an alien so ordered may file an application for asylum or withholding of deportation, provided no such original application has previously been filed with the Service or with an Immigration Judge and provided the application reasonably explains the alien's failure to file an application previously. Such application shall be filed with the District Director charged with executing the order, who shall immediately forward the application to an Asylum Officer with jurisdiction in his district. The Asylum Officer shall immediately determine whether the application is frivolous and whether it reasonably explains the applicant's failure to file previously. If the application is not frivolous and does reasonably explain the failure to file previously, the Asylum Officer shall so notify the District Director who shall stay the execution of the exclusion or deportation order. The Asylum Officer shall then process the application pursuant to paragraph (a) of this section. If asylum or withholding of deportation is granted, the Service shall file a motion with the Immigration Judge to reopen the exclusion or deportation proceeding and to vacate or amend the original order as appropriate. If the application is frivolous or does not reasonably explain the failure to file previously, or if asylum and withholding of deportation are denied, the District Director may execute the exclusion or deportation order, unless an appeal of the asylum or withholding of deportation decision is taken to the Board of Immigration Appeals. Such appeal shall be filed with the District Director within ten (10) days of the asylum or withholding of deportation decision. The District Director shall then forward the complete asylum or withholding of deportation record to the Office of the Immigration Judge having administrative control over the exclusion or deportation proceeding which shall forward that record, together with the exclusion or deportation record, to the Board. Upon receiving such appeal, the Board shall be deemed to be reopening the exclusion or deportation proceeding for the sole purpose of reviewing the asylum or

withholding of deportation decision. No other aspect of the exclusion or deportation proceeding may be reviewed by the Board.

(d) *Applications in the course of an appeal to BIA.* If an alien appeals an exclusion or deportation order to the Board of Immigration Appeals, that alien may file an application for asylum or withholding of deportation with the Board, provided no such original application has previously been filed with the Service or with an Immigration Judge and provided the application reasonably explains the alien's failure to file an application previously. If the application is not frivolous and does reasonably explain the alien's failure to file previously, as determined by the Board, the Board shall refer the application to the Assistant Commissioner, Office of Refugee, Asylum, and Parole, who shall process the application pursuant to paragraph (a) of this section. If the Board so refers the application, no final decision shall be rendered by the Board on the appeal until a decision has been rendered by an Asylum Officer on the asylum or withholding of deportation application and that decision has been returned to the Board, together with the record, for review in conjunction with the Board's review of the exclusion or deportation order.

(e) *Applications after exclusion or deportation is affirmed by BIA.* If an exclusion or deportation order has been affirmed by the Board of Immigration Appeals, an alien so ordered may file an application for asylum or withholding of deportation, provided no such original application has previously been filed with the Service, with an Immigration Judge, or with the Board and provided the application reasonably explains the alien's failure to file previously. Such application shall be filed with the Assistant Commissioner, Office of Refugee, Asylum, and Parole, who shall immediately determine whether the application is frivolous and whether it reasonably explains the failure to file previously. If the application is not frivolous and does reasonably explain the failure to file previously, the Assistant Commissioner shall notify the District Director charged with executing the exclusion or deportation order who shall stay the execution of the order until a decision on the merits of the asylum or withholding of deportation application has been reached. The Assistant Commissioner shall then process the application pursuant to paragraph (a) of this section. If asylum or withholding of deportation is granted, the Service shall file a motion with the Board to reopen the appeal and to vacate or amend the original order as appropriate. If the application is frivolous or does not reasonably explain the failure to file previously, or if asylum and withholding of deportation are denied, the District Director may execute the exclusion or deportation order, unless the applicant files an appeal to the Board for review of the asylum or withholding of deportation decision. Such appeal shall be filed with the District Director within ten (10) days of the asylum or withholding of deportation decision. The District Director shall then forward the complete asylum or withholding of deportation record to the Office of the Immigration Judge having administrative control over the exclusion or deportation proceeding, which shall forward that record, together with the exclusion or deportation record, to the Board. Upon receiving such appeal, the Board shall be deemed to be reopening the exclusion or deportation proceeding for the sole purpose of reviewing the asylum or withholding of deportation decision. No other aspect of the exclusion or deportation proceeding may be reviewed by the Board.

§ 208.4 Special duties toward aliens in custody of INS.

When an alien in the custody of the Service requests asylum or withholding of deportation or expresses fear of persecution or harm upon return to his country of origin or to agents thereof, the Service shall make available the appropriate application forms for asylum or withholding of deportation and shall provide the applicant with a list, if available, of persons or private agencies that can assist in preparation of the application. Such alien shall not be deported or excluded before a decision is rendered on his initial asylum or withholding of deportation application.

§ 208.5 Disclosure to third parties.

(a) An application for asylum or withholding of deportation shall not be disclosed, except as permitted by this section, without the written consent of the applicant. Names and other identifying details shall be deleted from copies of asylum or withholding of deportation decisions maintained in public reading rooms under § 103.9 of this chapter.

(b) The confidentiality of other records kept by the Service (including G–325A forms) that indicate that a specific alien has applied for asylum or withholding of deportation shall also be protected from disclosure. The Service will coordinate with the Department of State to ensure that the confidentiality of these records is maintained when they are transmitted to State Department offices in other countries.

(c) This section shall not apply to any disclosure to:

(1) Any United States Government official or contractor having a need to examine information in connection with:

(i) Adjudication of the asylum or withholding of deportation application;

(ii) The defense of any legal action arising from the adjudication of or failure to adjudicate the asylum or withholding of deportation application;

(iii) The defense of any legal action of which the asylum or withholding of deportation application is a part; or

(iv) Any United States Government investigation concerning any criminal or civil matter;

(2) A representative of the United Nations High Commissioner for Refugees when the Attorney General or his representative, in consultation with the Secretary of State or his representative, determines that examination by the High Commissioner is appropriate; or

(3) Any Federal, state, or local court of the United States considering any legal action:

(i) Arising from the adjudication of or failure to adjudicate the asylum or withholding of deportation application; or

(ii) Arising from the proceedings of which the asylum or withholding of deportation application is a part.

§ 208.6 Interim employment authorization.

(a) The Asylum Officer to whom an asylum or withholding of deportation case is referred shall authorize employment for applicants who are not under detention and whose applications he determines are not frivolous.

(b) Employment authorization shall be for a period of time necessary for the Asylum Officer to decide the application and, if necessary, for final adjudication of any administrative or judicial review. If the application is denied by the Asylum Officer, the employment authorization shall automatically terminate thirty days after the denial by an Asylum Officer or affirmation of denial by appellate authority.

(c) Upon the denied applicant's request, the District Director, in his discretion, may grant further employment authorization pursuant to 8 CFR 274a.12(c)(12).

§ 208.7 Limitations on travel outside the United States.

An applicant who leaves the United States pursuant to advance parole

granted under 8 CFR 212.5(e) shall be deemed to have abandoned his application under this section if he returns to the country of claimed persecution.

§ 208.8 Interview and Procedure.

(a) For each non-frivolous application for asylum or withholding of deportation, an interview shall be conducted by an Asylum Officer, either at the time of application or at a later date to be determined by the Officer in consultation with the applicant. The interview shall be conducted in a nonadversarial manner and out of hearing and view of the general public. The purpose of the interview shall be to elicit all relevant and useful information bearing on the applicant's eligibility for the form of relief sought. The applicant may have counsel or a representative present and may submit affidavits of witnesses. The entire interview shall be recorded verbatim.

(b) The Asylum Officer shall have authority to administer oaths, present and receive evidence, and question the applicant and any witnesses, if necessary.

(c) Upon completion of the interview, the applicant or his representative shall have an opportunity to make a statement or comment on the evidence presented. The Asylum Officer, in his discretion, may limit the length of such comments or statement and may require their submission in writing.

(d) Following the interview the applicant may be given a period not to exceed 30 days to submit evidence in support of his application, unless, in the discretion of the Asylum Officer, a longer period is required.

(e) The application, all supporting information provided by the applicant, any comments submitted by the Bureau of Human Rights and Humanitarian Affairs of the Department of State, the Asylum Policy and Review Unit of the Department of Justice, or by the Service, the verbatim recording of any interviews and, if there is an appeal, the transcripts thereof, and any other information submitted to the Asylum Officer shall comprise the record.

(f) Where possible, the Asylum Officer shall give expedited consideration to applications of aliens detained under 8 CFR Part 235 or 242.

§ 208.9 Failure to appear.

The unexcused failure of an applicant to appear for a scheduled interview may be deemed an abandonment of the application. Failure to appear shall be excused if the notice of the interview was not mailed to the applicant's current address and such address had been provided to the Office of Refugee, Asylum, and Parole by the applicant prior to the date of mailing in accordance with 8 U.S.C. 1305 and regulations promulgated thereunder, unless the Asylum Officer determines that the applicant received reasonable notice of the interview.

§ 208.10 Comments from the Bureau of Human Rights and Humanitarian Affairs.

(a) At its option, the Bureau of Human Rights and Humanitarian Affairs (BHRHA) of the Department of State may comment on an application it receives pursuant to § 208.3(a) by providing (1) an assessment of the accuracy of the applicant's assertions about conditions in his country of nationality or habitual residence and his own experiences, (2) an assessment of his likely treatment were he to return to his country of nationality or habitual residence, (3) information about whether persons who are similarly-situated to the applicant are persecuted in his country of nationality or habitual residence and the frequency of such persecution, (4) information about whether one of the grounds for denial specified in § 208.13 may apply, or (5) such other information or views as it deems relevant to deciding whether to grant or deny the application.

(b) In all cases, BHRHA shall respond within 45 days of receiving a completed application by either (1) providing comments, (2) requesting additional time in which to comment, or (3) indicating that it does not wish to comment. If BHRHA requests additional time in which to provide comments, the Asylum Officer may grant BHRHA up to 30 additional days when this is necessary to gather information pertinent to the application or may proceed without BHRHA's comments. Failure to receive BHRHA's response shall not preclude final decision by the Asylum Officer if at least 60 days have elapsed since mailing the completed application to BHRHA or if the Deputy Attorney General determines that an expedited decision is necessary or appropriate.

(c) When an Asylum Officer receives an application from an alien in detention under 8 CFR Part 235 or 242, the Officer shall so notify BHRHA and request an expedited comment on the application.

(d) Any Department of State comments provided under this section shall be made a part of the asylum record unless they are classified under Executive Order 12356, 3 CFR Part 166 (1982 Comp.). Unless the comments are classified, the Asylum Officer shall give the applicant a copy of such comments and provide an opportunity for the applicant to respond prior to the issuance of an adverse decision.

§ 208.11 Reliance on information compiled by other sources.

(a) In deciding applications for asylum or withholding of deportation, the Asylum Officer may rely on material provided by the Asylum Policy and Review Unit, the Office of Refugee, Asylum, and Parole, the District Director having jurisdiction over the place of the applicant's residence or the port of entry from which the applicant seeks admission to the United States, or other sources. Prior to the issuance of an adverse decision made in reliance upon such material, that material must be identified and the applicant must be provided with an opportunity to inspect, explain, and rebut the material, unless the material is classified under Executive Order No. 12356.

(b) Nothing in this Part shall be construed to entitle the applicant to conduct discovery directed toward the records, officers, agents, or employees of the Service, the Department of Justice, or the Department of State.

§ 208.12 Establishing refugee status; burden of proof.

(a) The burden of proof is on the applicant for asylum to establish by a preponderance of the evidence that he is a refugee as defined in section 101(a)(42) of the Act. The testimony of the applicant, if credible in light of general conditions in the applicant's country of nationality or habitual residence, may be sufficient to sustain the burden of proof without corroboration.

(b) The applicant may qualify as a refugee either because he has suffered actual past persecution or because he has a well-founded fear of future persecution.

(1) *Past persecution.*

(i) An applicant shall be found to be a refugee on the basis of past persecution if he (A) has suffered persecution in the past in his country of nationality or last habitual residence on account of race, religion, nationality, membership in a particular social group, or political opinion and (B) is unable or unwilling to return to or avail himself of the protection of that country owing to such persecution.

(ii) If the Asylum Officer determines that the applicant qualifies as a refugee on the basis of past persecution, the Officer shall also determine whether the applicant has a well-founded fear of persecution under paragraph (b)(2) of this section.

(2) *Well-founded fear of persecution.*

(i) An applicant shall be found to be a refugee on the basis of having a well-founded fear of persecution if (A) he has a fear of persecution in his country of nationality or last habitual residence on account of race, religion, nationality, membership in a particular social group, or political opinion, (B) there is a reasonable possibility of the applicant actually suffering such persecution if he were to return to that country, and (C) he is unable or unwilling to return to or avail himself of the protection of that country because of such fear.

(ii) In evaluating whether the applicant has sustained his burden of proving that he has a well-founded fear of persecution, the Asylum Officer:

(A) Shall not require the applicant to provide evidence that he would be singled out individually for persecution if he establishes that there is a pattern or practice in his country of nationality or last habitual residence of persecution of groups or categories of persons similarly situated to the applicant on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(B) Shall give due consideration to evidence that the government of the applicant's country of nationality or habitual residence persecutes its nationals or residents if they leave the country without authorization or seek asylum in another country.

(iii) If the applicant is determined under paragraph (b)(1) of this section to have suffered past persecution, he shall be presumed to have a well-founded fear of persecution unless a preponderance of the evidence establishes that since the time the persecution occurred conditions in the applicant's country of nationality or habitual residence have changed to such an extent that the applicant no longer has a well-founded fear of being persecuted if he were to return.

(c) An applicant shall not qualify as a refugee if he ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion. If the evidence raises the possibility that the applicant engaged in such conduct, he shall have the burden of proving by a preponderance of the evidence that he did not so act.

§ 208.13 Approval or denial of application.

(a) The Asylum Officer shall exercise discretion to grant or deny asylum to an applicant who qualifies as a refugee under section 101(a)(42) of the Act.

(b) If the evidence raises the possibility that one or more of the grounds for denial of asylum enumerated in paragraph (c) apply, the applicant shall have the burden of proving by a preponderance of the evidence that such grounds do not apply.

(c) *Mandatory denials:* An application for asylum shall be denied if:

(1) The alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community;

(2) There are serious reasons for considering that the alien has committed a serious non-political crime outside the United States prior to arrival in the United States;

(3) The applicant has been firmly resettled within the meaning of § 208.14; or

(4) There are reasonable grounds for regarding the alien as a danger to the security of the United States.

(d) *Discretionary grants or denials.* (1) An application for asylum may otherwise be granted or denied in the exercise of discretion. In deciding whether to grant or deny an application, the Asylum Officer shall consider as favoring a grant of asylum such factors as the applicant's family and other ties to the United States and the fundamentally humanitarian purposes of asylum. Accordingly, maintaining or facilitating family unity should be given appropriate consideration in deciding all asylum applications.

(2) An application may be denied on the ground that the applicant destroyed his immigration documents, attempted to use fraudulent documents to obtain lawful status in the United States, or otherwise attempted to defraud the U.S. Government especially if such fraud was committed primarily to avoid normal refugee admissions procedures available to the applicant and was not necessary to exit the country of persecution or temporary transit. However, an application shall not be denied on the ground that the applicant entered or attempted to enter the United States without inspection, without documentation, through the use of fraudulent documentation, or in some other unlawful manner if the applicant establishes (i) such entry or attempted entry was necessary because the applicant came directly from a country of persecution or from a country through which it was necessary to briefly transit on his route of flight, and (ii) the applicant presented himself to U.S. immigration authorities promptly after his arrival in the United States.

(3) An application for asylum shall be denied in the exercise of discretion if the applicant qualifies for refugee status on the basis of past persecution under § 208.12(b)(1) but is determined not to have a well-founded fear of future persecution under § 208.12(b)(2), unless the Asylum Officer determines that the applicant has demonstrated compelling reasons for being unwilling to return to his country of nationality or last habitual residence arising out of the severity of the past persecution; if the applicant demonstrates such compelling reasons, he shall be granted asylum and permitted to remain in the United States.

§ 208.14 Definition of "Firm Resettlement".

An alien is considered to be firmly resettled if he was offered permanent resident status, citizenship, or some other type of permanent resettlement by another nation and he accepted that offer, unless he establishes to the satisfaction of the Asylum Officer reviewing the case:

(a) That his entry into that nation was a necessary consequence of his flight from persecution, that he remained in that nation only as long as was necessary to arrange onward travel, and that he did not establish significant ties in that nation, or

(b) That the conditions of his residence in that nation were so substantially and consciously restricted by the authority of the country of refuge that he was not in fact resettled. In making his determination, the Asylum Officer shall consider the conditions under which other residents of the country live, the type of housing made available to the refugee, whether permanent or temporary, the types and extent of employment available to the refugee, and the extent to which the refugee received permission to hold property and to enjoy other rights and privileges, such as travel documentation, education, public relief, or naturalization, ordinarily available to others resident in the country.

§ 208.15 Entitlement to withholding of deportation.

(a) *Consideration of application for withholding of deportation.* If the Asylum Officer denies an alien's application for asylum, he shall also decide whether the alien is entitled to withholding of deportation under section 243(h) of the Act. If the application for asylum is granted, no decision on withholding of deportation will be made unless and until the grant of asylum is later revoked or terminated and deportation proceedings are commenced.

(b) *Eligibility for withholding of deportation; burden of proof.* (1) The burden of proof is on the applicant for withholding of deportation to establish

by a preponderance of the evidence that his life or freedom would be threatened in the proposed country of deportation on account of race, religion, nationality, membership in a particular social group, or political opinion. The testimony of the applicant may be sufficient to sustain the burden of proof without corroboration.

(2)(i) The applicant's life or freedom shall be found to be threatened if it is more likely than not that he would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion.

(ii) If the applicant is determined to have suffered persecution in the past in the proposed country of deportation on account of race, religion, nationality, membership in a particular social group, or political opinion, it shall be presumed that his life or freedom would be threatened on return to that country unless a preponderance of the evidence establishes that conditions in the country have changed since the persecution occurred to such an extent that it is no longer more likely than not that the applicant would be persecuted there.

(iii) In evaluating whether the applicant has sustained the burden of proving that his life or freedom would be threatened in a particular country on account of race, religion, nationality, membership in a particular social group, or political opinion, the Asylum Officer:

(A) Shall not require the applicant to provide evidence that he would be singled out individually for persecution if he establishes that it is more likely than not that a similarly-situated person would be persecuted in the country of proposed deportation on account of race, religion, nationality, membership in a particular social group, or political opinion;

(B) Shall give due consideration to evidence that the government of the country persecutes its nationals or residents if they leave the country without authorization or seek asylum in another country.

(c) *Approval of application.* (1) Subject to paragraph (2) below, an application for withholding of deportation to a country of proposed deportation shall be granted if the applicant's eligibility for withholding is established pursuant to subsection (b) above.

(2)(i) An application for withholding of deportation shall be denied if:

(A) The alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(B) The alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

(C) There are serious reasons for considering that the alien has committed a serious nonpolitical crime outside the United States prior to arrival in the United States; or

(D) There are reasonable grounds for regarding the alien as a danger to the security of the United States.

(ii) The applicant shall have the burden of rebutting by a preponderance of the evidence any evidence that raises the possibility that he is ineligible for withholding of deportation under paragraph (c)(2)(i) of this section.

(d) In the event that asylum is denied solely in the exercise of discretion, pursuant to § 208.13(d), but the applicant is subsequently granted withholding of deportation under this section, thereby effectively precluding admission of the applicant's spouse or minor children following to join him, the denial of asylum shall be reconsidered. Factors to be so considered will include the reasons for the denial and reasonable alternatives available to the applicant such as reunification with his spouse or minor children in a third country.

§ 208.16 Decision.

The decision of the Asylum Officer to grant or deny asylum or withholding of deportation shall be communicated in writing to the applicant, the District Director having jurisdiction over the place of the applicant's residence or over the port of entry from which he sought admission to the United States, the Assistant Commissioner, Refugee, Asylum, and Parole, and the Asylum Policy and Review Unit of the Department of Justice. An adverse decision will state why asylum or withholding of deportation was denied and will contain an assessment of the applicant's credibility.

§ 208.17 Review of decisions and appeal.

(a) The Assistant Commissioner, Office of Refugee, Asylum, and Parole, shall have authority to review decisions by Asylum Officers, before they become effective, in any cases he shall designate. The Office of the Deputy Attorney General, assisted by the Asylum Policy and Review Unit, shall have authority to review decisions by Asylum Officers, before they become effective, in any cases designated pursuant to 28 CFR 0.15(f)(3). There shall be no right of appeal to the Office of Refugee, Asylum, and Parole, to the Office of the Deputy Attorney General, or to the Asylum Policy and Review Unit, and parties shall have no right to appear before such offices in the course of such review.

(b) The decisions of Asylum Officers shall be binding upon Immigration Judges in exclusion and deportation cases in which an applicant raises a claim of asylum or withholding of deportation as a bar to exclusion or deportation. In such a case, the Immigration Judge shall incorporate the Asylum Officer's decision into the exclusion or deportation decision.

(c) Except as provided in § 208.3 (c) and (e) and in § 253.1(f) of this chapter, appeals from asylum or withholding of deportation decisions may be taken only after such decisions have been incorporated into an exclusion or deportation decision by an Immigration Judge and exclusion or deportation has been ordered. The Notice of Appeal (Form I–290(a)) shall be submitted to the Office of the Immigration Judge where the exclusion or deportation decision was rendered, as provided in 8 CFR 3.36. Upon receipt of the Notice of Appeal, the record of the asylum or withholding of deportation proceeding shall be incorporated into the record of the exclusion or deportation proceeding by the Office of the Immigration Judge and forwarded to the Board of Immigration Appeals for review.

§ 208.18 Motion to reopen or reconsider.

(a) *With the District Director.* (1) An asylum or withholding of deportation proceeding may be reopened or a decision from such a proceeding reconsidered for proper cause upon motion. The motion shall state new facts to be proved or errors in the original decision and shall be supported by affidavits or other evidentiary material that establishes those facts or demonstrates those errors and makes a prima facie showing of eligibility for asylum or withholding of deportation. (2) Except as provided by paragraphs (b), (d), and (e) of this section, a motion to reopen or reconsider shall be filed with the District Director having jurisdiction over the location at which the original determination was made, who shall immediately forward the motion to an Asylum Officer with jurisdiction in his district. The Asylum Officer shall grant the motion only if the evidence offered is material and was not available or could not have been discovered or presented at the original proceeding and the applicant has made a prima facie showing of eligibility for asylum or withholding of deportation.

(b) *Motions pending completion of exclusion or deportation proceedings.* If exclusion or deportation proceedings have been commenced against a person,

any motion to reopen an original asylum or withholding of deportation proceeding or to reconsider the decision in such an original proceeding shall be filed with the Office of the Immigration Judge. That Office shall refer such motion to an Asylum Officer who shall immediately determine whether to grant the motion pursuant to subsection (a) above. If the motion is granted, the Asylum Officer shall so notify the Immigration Judge with administrative control over the exclusion or deportation proceeding, who shall render no final decision in that proceeding until a decision on the merits of the asylum or withholding of deportation claim has been rendered by the Asylum Officer and returned to the Immigration Judge together with the record. If the motion is not granted, the Asylum Officer shall so notify the Immigration Judge who shall conclude the exclusion or deportation proceedings.

(c) *Motions after completion of exclusion or deportation proceedings.* If exclusion or deportation proceedings before an Immigration Judge have been completed and a final exclusion or deportation order has been entered, pursuant to 8 CFR 3.37, any motion to reopen an original asylum or withholding of deportation proceeding or to reconsider the decision in such an original proceeding shall be filed with the District Director charged with executing the order, who shall immediately forward the motion to an Asylum Officer with jurisdiction in his district. The Asylum Officer shall immediately determine whether to grant the motion pursuant to paragraph (a) of this section. If the motion is granted, the Asylum Officer shall so notify the District Director who shall stay execution of the exclusion or deportation order until a decision on the merits of the asylum or withholding of deportation claim has been rendered by the Asylum Officer. If asylum or withholding of deportation is granted, the Asylum Officer shall so notify the District Director who shall file a motion with the Immigration Judge to reopen the exclusion or deportation proceeding and to vacate or amend the original order as appropriate. If the motion is not granted, or if asylum and withholding of deportation are denied, the Asylum Officer shall so notify the District Director who may then execute the exclusion or deportation order, unless an appeal of the asylum or withholding of deportation decision is taken to the Board of Immigration Appeals pursuant to § 208.3(c).

(d) *Motions in the course of an appeal to BIA.* If an exclusion or deportation order has been appealed to the Board of Immigration Appeals, a motion to reopen an original asylum or withholding of deportation proceeding or to reconsider the decision in such an original proceeding shall be filed with the Board, which shall immediately determine whether to grant such motion pursuant to the standard set forth in paragraph (a) of this section. If the motion is granted, the Board shall refer the case to the Assistant Commissioner, Office of Refugee, Asylum, and Parole, who shall assign it in turn to an Asylum Officer. If the Board so refers the case upon granting the motion, it shall render no final decision on the appeal until a decision on the merits of the asylum or withholding of deportation claim has been rendered by the Asylum Officer and returned to the Board for review in conjunction with its review of the exclusion or deportation order.

(e) *Motions after exclusion or deportation is affirmed by BIA.* If an exclusion or deportation order has been affirmed by the Board of Immigration Appeals, any motion to reopen an original asylum or withholding of deportation proceeding or to reconsider the decision in such an original proceeding shall be filed with the Board, which shall immediately determine whether to grant such motion pursuant to the standard set forth in paragraph (a) of this section. If the motion is granted, the Board shall reopen the appeal before it and shall notify the District Director charged with executing the exclusion or deportation order, who shall stay the execution of the order until a decision on the merits of the asylum or withholding of deportation claim has been reached. The Board shall then refer the case to the Assistant Commissioner, Office of Refugee, Asylum, and Parole, who shall assign it to an Asylum Officer. The appeal so reopened by the Board shall remain before it until a decision on the merits of the asylum or withholding of deportation claim has been rendered by the Asylum Officer and that decision, together with the record, has been returned to the Board for review.

(f) When considering a motion to reopen or reconsider, an Asylum Officer, in his discretion, may grant the applicant an interview.

§ 208.19 Approval and employment authorization.

When an alien's application for asylum is granted, he is granted asylum status for an indefinite period. Employment authorization is automatically granted or continued for persons granted asylum or withholding of deportation.

§ 208.20 Admission of asylee's spouse and children.

(a) *Eligibility.* A spouse, as defined in section 101(a)(35) of the Act, or child, as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Act, may also be granted asylum if accompanying or following to join the principal alien, unless it is determined that (1) the spouse or child ordered, incited, assisted, or otherwise participated in the persecution of any persons on account of race, religion, nationality, membership in a particular social group, or political opinion; (2) the spouse or child, having been convicted by a final judgment of a particularly serious crime in the United States, constitutes a danger to the community of the United States; (3) there are serious reasons for considering that the spouse or child has committed a serious, non-political crime outside the United States; or (4) there are reasonable grounds for regarding the spouse or child a danger to the security of the United States.

(b) *Relationship.* The relationship of spouse and child as defined in section 101(b)(1) of the Act must have existed at the time the principal alien's asylum application was approved, except for children born to or legally adopted by the principal alien and spouse after approval of the principal alien's asylum application.

(c) *Spouse or child in the United States.* When a spouse or child of an alien granted asylum is in the United States but was not included in the principal alien's application, the principal alien may request asylum for the spouse or child by filing Form I-730 with the District Director having jurisdiction over his place of residence, regardless of the status of that spouse or child in the United States.

(d) *Spouse or child outside the United States.* When a spouse or child of an alien granted asylum is outside the United States, the alien may request asylum for the spouse or child by filing form I-730 with the District Director, setting forth the full name, relationship, date and place of birth, and current location of each such person. Upon approval of the request, the District Director shall notify the Department of State, which will send an authorization cable to the American Embassy or Consulate having jurisdiction over the area in which the asylee's spouse or children are located.

(e) *Denial.* If the spouse or child is found to be ineligible for the status accorded under section 208(c) of the Act,

a written notice explaining the basis for denial shall be forwarded to the principal asylee. No appeal shall lie from this decision.

(f) *Burden of proof.* To establish the claim of relationship of spouse or child as defined in section 101(b)(1) of the Act, evidence must be submitted with the request as set forth in Part 204 of this chapter. Where possible this will consist of the documents specified in 8 CFR 204.2(c) (2) and (3). The burden of proof is on the principal alien to establish by a preponderance of the evidence that any person on whose behalf he is making a request under this section is an eligible spouse or child.

(g) *Duration.* The spouse or child qualifying under section 208(c) of the Act shall be granted asylum for an indefinite period unless the principal's status is revoked.

§ 208.21 Effect on deportation proceedings.

(a) An alien who has been granted asylum may not be excluded or deported unless his asylum status is revoked pursuant to § 208.23. An alien in exclusion or deportation proceedings who is granted withholding of deportation may not be deported to the country as to which his deportation is ordered withheld unless withholding of deportation is revoked pursuant to § 208.23.

(b) When an alien's asylum status or withholding of deportation is terminated under this chapter, he shall be placed in deportation proceedings. Deportation proceedings may be conducted concurrently with a revocation hearing scheduled under § 208.23.

§ 208.22 Restoration of status.

An alien who was maintaining his nonimmigrant status at the time of filing an application for asylum or withholding of deportation shall continue or be restored to that status, if it has not expired, notwithstanding the denial of asylum or withholding of deportation.

§ 208.23 Revocation of asylum or withholding of deportation.

(a) Upon motion by the Assistant Commissioner, Office of Refugee, Asylum, and Parole, and following a hearing before an Asylum Officer, the grant to an alien of asylum may be revoked if, by a preponderance of the evidence, the Service establishes that:

(1) The alien is no longer a refugee due to a change of conditions in the alien's country of nationality or habitual residence;

(2) There is a clear showing of fraud in the alien's application such that he was not eligible for asylum at the time it was granted; or

(3) The alien has committed any act that would have been grounds for denial of asylum under section 208.13(c).

(b) Upon motion by the Assistant Commissioner, Office of Refugee, Asylum, and Parole, and following a hearing before an Asylum Officer, the grant to an alien of withholding of deportation may be revoked if, by clear and convincing evidence, the Service establishes that:

(1) The alien is no longer entitled to withholding of deportation due to a change of conditions in the country to which deportation was withheld;

(2) There is a clear showing of fraud in the alien's application such that he was not eligible for withholding of deportation at the time it was granted;

(3) The alien has committed any other act that would have been grounds for denial of withholding of deportation under § 208.15(c)(2).

(c) Upon motion by the Assistant Commissioner to revoke asylum status or withholding of deportation, the alien shall be given notice of intent to revoke, with the reason therefore, at least thirty days before the hearing by the Asylum Officer. The alien shall be provided the opportunity to present evidence tending to show that he is still eligible for asylum or withholding of deportation. If the Asylum Officer determines that the alien is no longer eligible for asylum or withholding of deportation, the alien shall be given written notice that asylum status or withholding of deportation along with employment authorization are revoked.

(d) The termination of asylum status for a person who was the principal applicant shall result in termination of the asylum status of a spouse or children whose status was based on the asylum application of the principal.

(e) The Office of the Deputy Attorney General, assisted by the Asylum Policy and Review Unit, shall have authority to review decisions to revoke asylum or withholding of deportation, before they become effective, in any cases designated pursuant to 28 CFR 0.15(f)(3). There shall be no right of appeal to the Office of the Deputy Attorney General or to the Asylum Policy and Review Unit and parties shall have no right to appear before such offices in the course of such review.

PART 236—[AMENDED]

3. The authority citation for Part 236 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1224, 1225, 1226, 1362.

4. In PART 236, EXCLUSION OF ALIENS, § 236.3 is revised to read as follows:

§ 236.3 Applications for asylum or withholding of deportation.

(a) If an alien expresses fear of persecution or harm upon return to his country of origin or to a country to which he may be deported after exclusion from the United States pursuant to Part 237 of this chapter, the Immigration Judge shall (1) advise the alien that he may apply for asylum in the United States or withholding of deportation to that other country, and (2) make available the appropriate application forms.

(b) An application for asylum or withholding of deportation must be filed with the Office of the Immigration Judge, pursuant to § 208.3(b) of this chapter.

(c) Applications for asylum or withholding of deportation so filed will be decided by an Asylum Officer pursuant to Part 208 of this chapter.

PART 242—[AMENDED]

5. The authority citation of Part 242 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1252, 1254, 1362.

6. In PART 242, PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING AND APPEAL, § 242.17 (c), is revised to read as follows:

§ 242.17 [Amended]

* * * * *

(c) *Applications for asylum or withholding of deportation.* (1) The Immigration Judge shall notify the respondent that if he is finally ordered deported his deportation will in the first instance be directed pursuant to section 243(a) of the Act to the country designated by the respondent and shall afford him an opportunity then and there to make such designation. The Immigration Judge shall then specify and state for the record the country, or countries in the alternative, to which respondent's deportation will be directed pursuant to section 243(a) of the Act if the country of his designation will not accept him into its territory, or fails to furnish timely notice of acceptance, or if the respondent declines to designate a country.

(2) If the alien expresses fear of persecution or harm in any of the countries to which he might be deported pursuant to paragraph (1) of this section, the Immigration Judge shall (i) advise the alien that he may apply for asylum in the United States or withholding of

deportation to those countries, and (ii) make available the appropriate forms.

(3) An application for asylum or withholding of deportation must be filed with the Office of the Immigration Judge, pursuant to § 208.3(b) of this chapter.

(4) Applications for asylum or withholding of deportation so filed will be decided by an Asylum Officer pursuant to Part 208 of this chapter.

PART 253—[AMENDED]

7. The authority citation for Part 253 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1282, 1283, 1285.

8. In PART 253, PAROLE OF ALIEN CREWMAN, § 253.1(f) is revised to read as follows:

§ 253.1 [Amended]

* * * * *

(f) *Crewman, stowaway, or alien temporarily excluded under section 235(c) alleging persecution.* Any alien crewman, stowaway, or alien temporarily excluded under section 235(c) of the Act who alleges that he cannot return to his country of nationality or habitual residence (if not a national of any country) because of fear of persecution in that country on account of race, religion, nationality, membership in a particular social group, or political opinion, is eligible to apply for asylum or withholding of deportation under Part 208 of this chapter. If the alien is on a vessel or other conveyance and makes such fear known to an immigration inspector or other official making an examination on the conveyance, he shall be promptly removed from the conveyance in accordance with § 233.1 of this chapter. If the alien makes his fear known to an official while off such conveyance, he shall not be returned to the conveyance but shall be retained in or transferred to the custody of the Service. In either case, the alien shall be provided the appropriate application forms and such other information as is required by § 208.4 of this chapter and may then have ten (10) days within which to file an application for such relief with the District Director having jurisdiction over the port of entry from which the applicant seeks entry into the United States. The District Director, pursuant to § 208.3(a) of this chapter, shall immediately forward any such application to an Asylum Officer with jurisdiction over his district. Pending adjudication of the application by the Asylum Officer, the applicant shall be detained by the Service, or paroled into the custody of the ship's agent or otherwise paroled in accordance with § 212.5 of this chapter and shall not be excluded or deported before a decision is rendered by the Asylum Officer on his asylum application. A decision denying asylum to an alien crewman or stowaway, but not an alien temporarily excluded under section 235(c), may be appealed directly to the Board of Immigration Appeals. Such appeal must be filed within ten (10) days of the Asylum Officer's decision by filing a notice of appeal on Form I–290A with the District Director, who shall immediately forward the notice to the Asylum Officer. The Asylum Officer shall transmit the notice of appeal, his decision, and the record on which that decision was based, to the Board of Immigration Appeals. The filing of a notice of appeal shall stay the exclusion or deportation of the applicant pending decision on the appeal by the Board.

* * * * *

Dated: August 21, 1987.

Arnold I. Burns,

Acting Attorney General.

[FR Doc. 87–19682 Filed 8–27–87; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 87–006]

Cattle From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning the importation into the United States of cattle from Canada by designating Yukon Territory and Northwest Territories as brucellosis certified free territories. The adoption of this proposal would relieve restrictions on the importation of certain cattle from Canada since we have determined that all provinces and territories of Canada are free of brucellosis.

DATE: Consideration will be given only to comments postmarked or received on or before October 27, 1987.

ADDRESS: Send an original and two copies of written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 87–006. Comments received may be inspected in Room 728 of the Federal Building between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Bowen, Senior Staff Veterinarian, Import-Export and Emergency Planning Staff, VS, APHIS, USDA, Room 810, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 92 (referred to below as the regulations), regulate the importation into the United States of specified animals and animal products in order to prevent the introduction into the United States of various diseases. Section 92.20(c) of the regulations states that cattle from Canada six months of age or older, except steers and all cattle for immediate slaughter, may be imported only if they are accompanied by a brucellosis test certificate or brucellosis vaccination certificate.

To qualify for a brucellosis test certificate or brucellosis vaccination certificate, cattle from Canada must meet one of the alternate sets of requirements set forth in § 92.20(c) of the regulations. One alternative allows cattle to qualify for a brucellosis test certificate if they originated from brucellosis certified free provinces of Canada (known in Canada as a brucellosis accredited free province or territory), if they have been tested for brucellosis with negative results within 30 days before their date of entry, and if they had originated from a herd that had been maintained as a herd unit for at least one year before their exportation.

Under Canadian law, as a condition to maintain status as a brucellosis accredited free province or territory, dairy herds in the province or territory must be subjected to a minimum of three milk ring tests for brucellosis each year. Also, nondairy herds must have had a rate of at least 5 percent market cattle tests conducted each year or a complete herd test at the end of each 3-year period. Further, cattle for breeding purposes originating from provinces or territories of Canada, other than those that are brucellosis accredited free, must comply with testing requirements for movement into the brucellosis accredited free provinces and territories.

Our proposal would add Yukon Territory and Northwest Territories to the regulations as brucellosis certified free. Nevertheless, since these are territories and not provinces, we cannot add them to the list of brucellosis

certified free provinces of Canada. Therefore, we are proposing to revise the definition heading of "Brucellosis certified free provinces of Canada" to read "Brucellosis certified free provinces and territories of Canada." We are also proposing to eliminate nonsubstantive language from the definition.

The regulations in § 92.20(c) state that under certain conditions cattle from Canada may qualify for a brucellosis test certificate if they originate from brucellosis certified free provinces of Canada. Because we are proposing to add territories as brucellosis certified free, cattle from Canada may qualify for a brucellosis test certificate, if they originate from brucellosis certified free provinces or territories of Canada. Therefore, we are also proposing to revise § 92.20(c) by changing brucellosis certified free provinces to brucellosis certified free provinces and territories wherever it appears. If this proposal is adopted as a final rule, all of Canada will be designated as brucellosis certified free.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We are proposing to recognize all provinces and territories of Canada as brucellosis certified free. We anticipate that if the proposed rule is adopted, there will be no significant change in the number of cattle imported into the United States from Canada and that there will be no significant change with respect to the cost of importing cattle into the United States from Canada. This amendment would directly affect very few, if any, cattlemen since the cattle population in Yukon Territories and Northwest Territories is small, and few cattle are expected to the United States from those territories.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act.

This proposed rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMALS AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, 9 CFR Part 92 would be amended as follows:

1. The authority citation for Part 92 would continue to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102–105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.1 [Amended]

2. In § 92.1, the definition of "Brucellosis certified free provinces of Canada" would be revised to read as follows:

* * * * *

Brucellosis certified free provinces and territories of Canada. Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, (including Labrador), Northwest Territories, Nova Scotia, Ontario, Quebec, Prince Edward Island, Saskatchewan, and Yukon Territory.

* * * * *

§ 92.20 [Amended]

3. Section 92.20, paragraph (c) would be amended by changing "brucellosis certified free provinces" to read "brucellosis certified free provinces and territories" wherever it appears in the paragraph and by changing "brucellosis certified free province" to read "brucellosis certified free province or territory" wherever it appears in the paragraph.

Done in Washington, DC, this 24th day of August 1987.

B.G. Johnson,

Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87–19759 Filed 8–27–87; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87–ASW–33]

Proposed Establishment of Transition Area; Berclair, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Berclair, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing a standard instrument approach procedure (SIAP), developed by the Department of Navy, to the Navy Auxiliary Landing Field (NALF), Goliad Airport, Berclair, TX. This action is necessary to ensure segregation of aircraft operating to and from the airport under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR). This proposed action will change the airport status from VFR to IFR.

DATES: Comments must be received on or before September 30, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 87–ASW–33, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193–0530.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Bruce C. Beard, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Forth Worth, TX 76193–0530; telephone: (817) 624–5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ASW-33." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating a 700-foot transition area at NALF Goliad Airport, Berclair, TX. The development of an instrument approach procedure to NALF Goliad Airport by the Department of Navy entails the designation of a transition area at Berclair, TX, at and above 700 feet above ground level within which aircraft are provided air traffic control services. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under IFR and other aircraft operating under VFR. This proposed action will change the airport status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Berclair, TX [New]

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the NALF Goliad Airport (latitude 28°36'30" N., longitude 97°36'33" W.) within 4 miles each side of the 315° radial of the Goliad TACAN (latitude 28°37'25" N., longitude 97°37'30" W.) extending from the 8.5-mile radius area to 11.5 miles northwest of the airport; excluding that portion that coincides with the Beeville, TX Transition Area.

Issued in Fort Worth, TX on August 14, 1987.

Larry L. Craig,

Manager, Air Traffic Division Southwest Region.

[FR Doc. 87-19736 Filed 8-27-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 942

[Docket No.]

Cordell Bank National Marine Sanctuary Regulations

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce (DOC).

ACTION: Proposed rule; notice of proposed designation; summary of draft management plan; and notice of public availability of draft management plan and draft environmental impact statement.

SUMMARY: The National Oceanic and Atmospheric Administration, by the proposed Designation Document contained in this notice, proposes to designate an area of marine waters encompassing a total of 101.10 square nautical miles surrounding Cordell Bank, which is located approximately 50 nautical miles west-northwest of San Francisco, California, as the Cordell Bank National Marine Sanctuary. By this notice, NOAA also proposes to issue regulations to implement the proposed designation and regulate activities in the sanctuary consistent with the provisions in the proposed Designation Document. The notice also summarizes the draft management plan prepared for the proposed sanctuary which details the proposed goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement, including surveillance, activities for the area. Finally, the notice announces the public availability of the draft management plan and the draft environmental impact statement prepared for the proposed designation, the proposed implementing regulations, and the draft management plan.

Before an area may be designated as a national marine sanctuary, section 303 of the Marine Protection, Research, and Sanctuaries Act, as amended (16 U.S.C.

1433) ("Act") requires that the Secretary of Commerce make a number of statutory findings and section 304 (16 U.S.C. 1634) requires that this subject notice be published in the **Federal Register** and that a variety of other actions to be taken.

The purpose of this notice is to comply with the provisions of section 304 with respect to a proposal to designate an area as a national marine sanctuary and to invite public comments on the proposal and the proposed rules, and to announce the availability of, and to request public comments on, the draft management plan and the draft environmental impact statement.

After the close of the comment period and consideration of the comments received, and review by the Congress and the consultations specified in section 304, the findings specified in section 303 will be made and the other actions specified in section 304 will be taken including the publication of a notice of designation together with final regulations implementing the designation, or a notice withdrawing the proposed designation will be published.

DATE: Comments will be considered if received by October 27, 1987.

ADDRESSES: Send comments to Vickie A. Allin, Acting Chief, Marine and Estuarine Management Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235. Copies of the draft management plan and the draft environmental impact statement are available upon request to the Office of Ocean and Coastal Resource Management.

FOR FURTHER INFORMATION CONTACT: William W. Windom, 202/673–5122.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research, and Sanctuaries Act, as amended (16 U.S.C. 1431 *et seq.*) ("Act"), authorizes the Secretary of Commerce to designate discrete areas of the marine environment as national marine sanctuaries if, as required by section 303 of the Act (16 U.S.C. 1433), the Secretary finds, in consultation with the Congress, a variety of specified officials, and other interested persons, that the designation will fulfill the purposes and policies of Title III (set forth in section 301(b) of the Act (16 U.S.C 1431(b)) and: (1) The area proposed for designation is of special national significance due to its resource or human-use values; (2) existing State and Federal authorities are inadequate to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education; (3) designation of the area as a national marine sanctuary will facilitate the coordinated and comprehensive conservation and management of the area; and (4) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

Before the Secretary may designate an area as a national marine sanctuary, section 303 (16 U.S.C. 1433) requires him to make the above described statutory findings and section 304 (16 U.S.C 1434) requires him to issue this subject notice in the **Federal Register** and take a variety of other actions including preparation of a draft management plan for the sanctuary and a draft environmental impact statement.

The authority of the Secretary to designate national marine sanctuaries and administer the other provisions of the Act have been delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management in the National Oceanic and Atmospheric Administration (DOC/DOO 25–5A, section 301(z), August 25, 1985).

The waters surrounding Cordell Bank were nominated for status as a national marine sanctuary in July 1981. On June 30, 1983, NOAA declared the area an active candidate for further consideration as a national marine sanctuary. A public scoping meeting to gather information to determine the range and significance of issues related to sanctuary designation and management was held on April 25, 1984.

Cordell Bank and its surrounding waters, because of a rare combination of oceanic conditions and undersea topography, provide a highly productive marine environment in a discrete, well defined area. The prevailing California Current flows southward along the coast bringing nutrients to the upper levels of the Bank, while the upwelling of nutrient-rich, bottom waters stimulates the growth of planktonic organisms. These nutrients suport the entire food chain from small crustaceans to the fish. marine mammals and seabirds that form the exceptionally vigorous, ecological community flourishing at Cordell Bank. Designation of the area as a national marine sanctuary is proposed for the purposes of protecting and conserving this special ecological community.

With regard to a proposal to designate an area as a national marine sanctuary, section 304(a)(4) requires that the proposed designation include the geographic area proposed to be included within the sanctuary; the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational or esthetic value; and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. As specified in section 304(a)(4), the terms of the designation may be modified only by the same procedures by which the original designation was made. Thus the designation serves as a constitution for the sanctuary.

The following proposed Designation Document, proposes to designate a 101.10 square nautical mile portion of the waters surrounding Cordell Bank, which is located approximately 50 nautical miles west-northwest of San Francisco, California, as the Cordell Bank National Marine Sanctuary.

Proposed Designation Document for The Cordell Bank National Marine Sanctuary

Under the authority of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended (the "Act"), 16 U.S.C. 1431 *et seq.*, the Cordell Bank and its surrounding waters offshore northern California, as described in Article 2, are hereby designated as a National Marine Sanctuary for the purposes of protecting and conserving the special ecological community residing therein.

Article 1. Effect of Designation

Within the area designated as the Cordell Bank National Marine Sanctuary (the Sanctuary) described in Article 2, the Act authorizes the promulgation of such regulations as are necessary and reasonable to protect the conservation, recreational, ecological, historical, research, educational, or esthetic values of the Sanctuary. Article 4 of this Designation Document lists those activities which have been identified as activities that may require regulation now or in the future in order to protect sanctuary resources. Listing, however, does not by itself imply that an activity will be regulated. Such restrictions may be imposed only by specific regulation. Activities not already listed may be regulated only by amending Article 4 by the same procedures through which the original Designation was made.

Article 2. Description of the Area

The Sanctuary consists of the Cordell Bank and the area of waters within 3 nautical miles beyond the 50 fathom depth contour surrounding The Bank. the Sanctuary encompasses 101.10 square nautical miles. The precise boundaries are defined by regulation.

Article 3. Characteristics of the Area that Give it Particular Value

Cordell Bank is characterized by a combination of oceanic conditions and undersea topography that provides for a highly productive environment in a discrete, well-defined area. The Bank consists of a series of steep-sided ridges and narrow pinnacles rising from the edge of the continental shelf. It lies on a plateau 300–400 feet (91 to 122 meters) deep and ascends to within about 115 feet (35 meters) of the surface. The prevailing California Current flows southward along the coast bringing nutrients to the upper levels of the Bank, while the upwelling of nutrient-rich, bottom waters stimulates the growth of planktonic organisms. These nutrients, combined with high light penetration in Bank waters and wide depth ranges in the vicinity, have led to a unique association of subtidal and oceanic species. The vigorous, biological community flourishing at Cordell Bank includes an exceptional assortment of algaes, invertebrates, fish, marine mammals and seabirds.

Article 4. Scope of Regulation

Section 1.—Activities Subject to Regulation

To protect the Sanctuary's distinctive values, the following activities may be regulated within the Sanctuary and adjacent waters to the extent necessary and reasonable to ensure the protection of the Sanctuary's conservation, recreational, ecological, historical, research, education or esthetic values:

a. Depositing or discharging any material or substance;

b. Removing or damaging hydrocoral and other resources; and

c. Hydrocarbon (oil and gas) activities will not be subject to regulation at this time but may be regulated in the future if deemed necessary for resource protection.

Section 2.—Consistency with International Law

The regulations governing activities listed in Section 1 of this Article will apply to foreign flag vessels and persons not citizens of the United States only to the extent consistent with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party.

Section 3.—Emergency Regulations

Where essential to prevent immediate, serious, and irreversible damage to the ecosystem of the area, activities, including those not listed in Section 1 of this Article, may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days, during which an appropriate amendment of this Article will be proposed in accordance with the procedures specified in Article 6.

Article 5. Relation to Other Regulatory Programs

Section 1.—Fishing

The regulation of fishing is not authorized under Article 4. Fishing vessels, however, may be regulated with respect to discharges in accordance with Article 4, Section 1, paragraph (b). All regulatory programs pertaining to fishing, including Fishery Management Plans promulgated under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, will remain in effect. All permits, licenses, and other authorizations issued pursuant to the Magnuson Act shall be valid within the Sanctuary subject only to the activity regulations issued pursuant to Article 4.

Section 2.—Defense Activities

The regulation of activities listed in Article 4 shall not prohibit any Department of Defense activity that is essential for national defense or because of emergency. All activities currently carried out by the Department of Defense within the area of the proposed Sanctuary are necessary for the national defense and, therefore, are not subject to Sanctuary prohibitions. Additional activities having the potential for significant environmental impact may be exempted after consultation between the Department of Commerce and the Department of Defense.

Section 3.—Other Programs

All applicable regulatory programs shall remain in effect, and all permits, licenses, and other authorizations issued pursuant to those authorities shall be valid, subject only to the regulation of activities pursuant to Article 4.

Article 6. Alterations to this Designation

This designation may be altered only in accordance with the same procedures by which it has been made, including public hearings, consultation with interested Federal and State agencies and the Pacific Fishery Management Council, review by the appropriate Congressional committees, and approval by the Secretary of Commerce or his designee.

End of Designation Document.

Additional Information

Section 304 requires the Secretary to submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the same day as this notice is published, a prospectus on the proposal which must contain, among other things, the terms of the proposed designation, the proposed regulations, a draft managment plan detailing the proposed goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement, including surveillance activities, for the area, and a draft environmental impact statement. In accordance with section 304, the required prospectus has been submitted to the Congressional committees and the required draft management plan is summarized below. Copies of the draft management plan are available upon request to the Office of Ocean and Coastal Resource Management at the address listed above.

Summary of Draft Management Plan

The draft management plan for the proposed sanctuary sets forth the sanctuary's location and provides details on the important resources and uses of the sanctuary. An action plan describes the resource protection, research, and interpretive programs and details the specific activities to be taken in each program. The administrative section of the plan includes a detailed breakdown, by program area, of agency roles and responsibilities. The sanctuary goals and objectives are:

Resource Protection

The highest priority management goal is to protect the marine environment and resources of the Cordell Bank National Marine Sanctuary. The specific objectives of resource protection efforts are to:

- Prevent injury to the resources by promulgating regulations to protect them from the adverse effects of harmful effluents and solid wastes and from being damaged or taken by divers;
- Establish cooperative agreements and other mechanisms for coordination among the agencies participating with NOAA in sanctuary management;
- Develop an effective and coordinated program for the enforcement of sanctuary regulations;
- Promote public awareness of, and voluntary user compliance with, regulations through an interpretive program stressing resource sensitivity and wise use; and
- Reduce threats to sanctuary resources raised by major emergencies through contingency and emergency-response planning.

Research

The purpose of sanctuary research activities is to improve understanding of the Cordell Bank environment and resources and to resolve specific management problems, some of which may involve resources common to both the Bank and the nearby Point Reyes-Farallon Islands National Marine Sanctuary. Research results will be used in interpretive programs for visitors and others interested in the sanctuary, as well as for resource protection. Specific objectives for the research program are to:

- Establish a framework and procedures for administering research to ensure that research projects are responsive to management concerns and that results contribute to improved management of the sanctuary;
- Gather baseline data on the physical, chemical and biological oceanography of the sanctuary;
- Initiate a monitoring program to assess environmental changes as they occur;
- Identify the range of effects on the environment that would result from predicted changes in human activity;
- Incorporate research results into the interpretive program in a format useful for the general public; and
- Encourage information exchange among all the organizations and agencies undertaking research in the sanctuary to promote more informed management.

Interpretation

The goal for interpretive programs is to improve public awareness and understanding of the significance of the sanctuary and the need to protect its resources. The management objectives designed to meet this goal are to:

- Provide the public with information on the sanctuary, its goals and objectives, with an emphasis on the need to use these resources wisely to ensure their long-term viability;
- Broaden support for the sanctuary and sanctuary management by offering programs suited to visitors with a range of diverse interests;
- Provide for public involvement by encouraging feedback on the effectiveness of interpretive programs, collaboration with sanctuary management staff in extension and outreach programs, and participation in other volunteer programs; and
- Collaborate with other organizations to provide interpretive services complementary to the sanctuary program.

Visitor Use

The sanctuary goal for visitor management is to encourage commercial and recreational use of the sanctuary compatible with resource protection. Specific management objectives are to:

- Provide relevant information about sanctuary regulations, use policies and standards;
- Collaborate with public and private organizations in promoting compatible use of the sanctuary by exchanging information concerning the commercial and recreational potential of the sanctuary; and
- Assess the current levels of use and monitor use over time to identify and control potential degradation of resources and minimize potential user conflicts.

Executive Order 12291

Under Executive Order 12291, the Department must judge whether the regulations proposed in this notice are "major" within the meaning of section 1 of Order, and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. The Assistant Administrator has determined that the regulations proposed in this notice are not major because, if adopted, they are not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or,

(3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The regulations proposed in this notice would prohibit only a narrow range of activities (depositing or discharging materials or substances in or near the proposed sanctuary which could injure the sanctuary and removing or damaging benthic organisms on the ridges and peaks of Cordell Bank) in a relatively small portion of the seas, would establish procedures whereby permits to conduct an otherwise prohibited activity could be applied for and obtained for a narrow range of purposes, and set forth the maximum per day penalty for conducting a prohibited activity. Thus, the proposed regulations, if adopted, are expected to have little or no direct or indirect economic impact and no adverse direct or indirect environmental effects.

Regulatory Flexibility Act

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that these proposed rules, if adopted, will not have a significant economic impact on a substantial number of small entities because the proposed regulations would have no effect on small business or small government jurisdictions. As a result, an initial Regulatory Flexibility Analysis was not prepared.

Paperwork Reduction Act

This proposed rule contains a collection of information requirement subject to the requirements of the Paperwork Reduction Act (Pub. L. 96–511). The collection of information is necessary for the effective management of the proposed sanctuary. The collection of information requirement contained in the proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Comments from the public on the collection of information requirement are specifically invited and should be addressed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20530, Attention: Desk Officer for the Department of Commerce, NOAA.

National Environmental Policy Act

In accordance with section 304(a)(2) of the Act (16 U.S.C. 1434(a)(2)) and the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 through 4370(a)), a draft environmental impact statement has been prepared for the proposed designation and the proposed regulations. As required by section 304(a)(2), the draft environmental impact statement includes the resource assessment report required by section 303(b)(3) of the Act (16 U.S.C. 1434(b)(3)), maps depicting the boundaries of the proposed designated area, and the existing and potential uses and resources of the area. Copies of the draft environmental impact statement are available upon request to the Office of Ocean and Coastal Resource Management at the address listed above.

List of Subjects in 15 CFR Part 942

Administrative practice and procedure, Environmental protection, Marine resources, Natural resources.

(Federal Domestic Assistance Catalog Number 11.429 National Marine Sanctuary Program)

Date: August 19, 1987.

Paul M. Wolff,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR is proposed to be amended as follows:

1. Part 942 is added to read as follows:

PART 942—CORDELL BANK NATIONAL MARINE SANCTUARY

Sec.

Authority: Secs. 303, 304, 305, and 307 of Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.*

§ 942.1 Authority.

The Sanctuary has been designated by the Secretary of Commerce pursuant to the authority of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.* (the Act). The regulations in this part are issued pursuant to the authority of sections 303(a), 304, 305, and 307 of the Act.

§ 942.2. Purpose.

The purpose of designating the Sanctuary is to protect and conserve the discrete, highly productive marine area of the Cordell Bank and its surrounding waters and to ensure the continued avialability of the area as an ecological, research and recreational resource.

§ 942.3. Boundary.

The Sanctuary consists of an area of marine waters 50 miles west-nothwest of San Francisco, California. The boundary, encompassing 101.10 square nautical miles, follows a line that includes all waters within three nautical miles beyond the fifty fathom depth contour surrounding Cordell Bank. The boundary coordinates are listed in the appendix following § 942.10.

§ 942.4. Definitions.

(a) "Act" means Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.*

(b) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, or his/her successor or designee.

(c) "Assistant Administrator" means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service, NOAA or designee.

(d) "Person" means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal government, or any state, local or regional unit of government.

(e) "The Sanctuary" means the Cordell Bank National Marine Sanctuary.

(f) "Injure" means to adversely change, either in the long- or short-term, a chemical or physical quality of, or the viability of, a sanctuary resource.

§ 942.5 Allowed activities.

All activities except those specifically prohibited by § 942.6 may be conducted within the Sanctuary subject to all other prohibitions, restrictions, and conditions imposed by any other authority.

§ 942.6 Prohibited activities.

(a) Except as may be necessary for national defense, in accordance with Article 5, Section 2 of the Designation Document, or as may be necessary to respond to an emergency threatening life, property or the environment, the following activities are prohibited unless permitted by the Assistant Administrator in accordance with § 942.8.

(1) *Depositing or discharging materials or substances.*

(i) Depositing or discharging, from any location within the boundary of the Sanctuary, of materials or substances of any kind except:

(A) Fish or parts of chumming materials (bait); and

(B) Water (including cooling water) and other biodegradable effluents incidental to vessel use of the Sanctuary generated by:

(1) Marine sanitation devices;

(2) Routine vessel maintenance, e.g., deck wash down;

(3) Engine exhaust; or

(4) Meals on board vessels.

(ii) Depositing or discharging, from any location beyond the boundary of the Sanctuary, materials or substances of any kind which may resonably be expected to enter the Sanctuary and injuire Sanctuary resources.

(2) *Removing or damaging resources.* Attempting to damage or damaging, or attempting to remove or removing, benthic organisms on the ridges and peaks of Cordell Bank.

(b) Any activity currently being carried out by the Department of Defense within the Sanctuary is exempt from the prohibitions of this section. Additional activities of the Department of Defense may be exempted by the Assistant Administrator after consultation between the Department of Commerce and the Department of Defense.

(c) The prohibitions in this section will be applied to foreign persons and foreign vessels in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other international agreements to which the United States is a party

§ 942.7 Penalties.

(a) Section 307(b) of the Act authorizes the assessment of a civil penalty of not more than $50,000 for each violation of any regulation issued pursuant to the Act. Each day of a continuing violation shall constitute a separate violation. Section 307(b)(3) further authorizes a proceeding in *rem* against any vessel used in violation of any regulation and for which a civil penalty has been assessed.

(b) Regulations setting forth the administrative procedures governing the assessment of civil penalties for violating the regulations in this part, hearings and appeals, permit sanctions and denials, and the issuance of written warnings appear at 15 CFR Part 904. Regulations setting forth the administrative procedures applicable to seizures, forfeitures, and disposals appear at 50 CFR Part 219.

(c) For violations of § 942.6(a)(1)(ii) of these regulations, a penalty may be assessed for those materials or substances discharged which enter the Sanctuary and injure Sanctuary resources.

§ 942.8 Permit applications—procedures and criteria.

(a) If a person wishes to conduct an activity prohibited under § 942.6, that person must apply for, receive, and be in possession of a valid permit issued pursuant to this Part authorizing that person to conduct that activity.

(b) Permit applications shall be addressed to the Assistant Administrator, Ocean Services and Coastal Zone Management; ATTN: Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235. An application shall include a description of all activities proposed, the equipment, methods, and personnel (particularly describing relevant

experience) involved, and a timetable for completion of the proposed activity. Copies of all other required licenses or permits shall be attached.

(c) Upon receipt of a complete application, the Assistant Administrator may seek the views of any person or entity, within or outside the Federal Government, and may hold a public hearing, in his or her discretion.

(d) The Assistant Administrator, in his or her discretion, may issue a permit subject to such conditions as deemed appropriate, to conduct an activity otherwise prohibited by § 942.6, if the Assistant Administrator finds that the activity will: Further research related to Sanctuary resources; further the educational value of the Sanctuary; further the recovery of archeological artifacts from or near the Sanctuary; or assist NOAA in managing the Sanctuary. In deciding whether to issue a permit, the Assistant Administrator may consider such factors as: The professional qualifications and financial ability of the applicant as related to the proposed activity; the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity; the extent to which the conduct of the activity may diminish or enhance the values for which the Sanctuary was designed; and the end value of the applicant's overall activity.

(e) A permit issued pursuant to this section is nontransferrable.

(f) The Assistant Administrator may amend, suspend or revoke a permit issued pursuant to this section, in whole or in part, if the Assistant Administrator determines that the permittee has acted in violation of the terms of the permit or of these regulations or that other good cause exists for amending, suspending or revoking the permit. Any such action shall be communicated in writing to the permittee, and shall set forth the reason(s) for the action taken.

§ 942.9 Appeals of administrative action.

(a) Except as provided in Subpart D of 15 CFR Part 904, an applicant for a permit, a permittee, or any other interested person (hereinafter appellant) may appeal the grant, denial, conditioning or suspension of any permit under § 940.8 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal must be in writing, must state the action(s) appealed and the reason(s) therefor, and must be submitted within 30 days of the action(s) by the Assistant Administrator. The Administrator, in his or her discretion, may hold an informal hearing on the appeal.

(b) Upon receipt of an appeal authorized by this section, the Administrator may request the appellant, the permit applicant or permittee, if other than the appellant, or any person or entity, within or outside the Federal Government, to submit such information as the Administrator may deem appropriate in order to decide the appeal. The Administrator shall decide the appeal based on the record before the Assistant Administrator and the record of the appeal. The Administrator will notify the appellant of the final decision and the reason(s) therefor in writing, normally within 30 days of the date of the receipt of adequate information to make the decision.

(c) If the Administrator determines that an informal hearing should be held, the Administrator may designate an officer before whom the hearing shall be held. Notice of the time, place, and subject matter of the hearing shall be published in the **Federal Register**. Such hearing shall be held no later than 30 days following publication of the notice in the **Federal Register**, unless the hearing officer extends the time for reasons deemed equitable. The appellant, the applicant or permittee and other interested persons may appear personally or by counsel at the hearing and submit such material and present such arguments as determined appropriate by the hearing officer. Within 30 days of the conclusion of the hearing, the hearing officer shall recommend a decision in writing to the Administrator.

(d) The Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Administrator shall notify the appellant and other interested persons of his/her decision, and the reason(s) therefor in writing within 30 days of receipt of the recommended decision of the hearing officer. The Administrator's decision shall constitute a final agency action for the purposes of the Administrative Procedure Act.

(e) Any time limit prescribed in this section may be extended by the Administrator for good cause for a period not to exceed 30 days, either upon his/her own motion or upon written request from the appellant, permit applicant or permittee, stating the reason(s) therefor.

§ 942.10 Other authorities.

(a) All permits, licenses, and other authorizations issued pursuant to any other authority are valid within the Sanctuary subject only to the activity restrictions set forth in § 942.6.

APPENDIX I—CORDELL BANK NATIONAL MARINE SANCTUARY BOUNDARY COORDINATES

Point No.	Latitude	Longitude
1	37°58'1678"	123°19'0126"
2	37°59'5988"	123°18'5801"
3	38°00'5453"	123°19'2220"
4	38°02'1971"	123°19'5129"
5	38°03'2099"	123°20'1780"
6	38°03'5204"	123°20'4616"
7	38°04'4802"	123°21'3862"
8	38°05'3092"	123°23'2611"
9	38°06'0713"	123°24'0221"
10	38°06'4362"	123°25'1593"
11	38°07'2385"	123°26'4822"
12	38°07'3434"	123°27'5375"
13	38°07'1286"	123°29'4704"
14	38°06'2381"	123°31'1138"
15	38°04'3460"	123°32'5298"
16	38°03'3861"	123°33'1585"
17	38°01'5683"	123°32'5877"
18	38°00'5402"	123°32'3439"
19	38°00'0592"	123°31'2512"
20	37°59'0238"	123°31'1289"
21	37°57'2470"	123°29'4215"
22	37°56'3979"	123°28'4083"
23	37°55'4343"	123°27'5149"
24	37°54'4914"	123°26'0927"
25	37°54'3846"	123°24'0940"
26	37°55'0103"	123°22'2934"
27	37°57'1773"	123°19'4460"

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Activities of Self-Regulatory Organization Governing Members Who Possess Material, Nonpublic Information

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing amendments to Regulation 1.59, § 1.59(a) (9) and (c), which would require self-regulatory organizations to adopt rules prohibiting, in accordance with the standards contained in the regulation, disclosure or other improper use of material, non-public information by members of self-regulatory organization governing boards or committees, and which would require contract markets and clearing organizations to adopt rules requiring the immediate publication, except for good cause shown, of final decisions of contract market and clearing

organization governing boards and committees.

DATES: Comments must be received on or before September 28, 1987.

ADDRESS: Comments on the proposed regulation should be sent to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: De'Ana Hamilton-Brown, Attorney/Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

On June 11, 1985, the Commission published proposed Regulation 1.59, relating to the activities of self-regulatory organization employees and governing members in the possession of material, non-public information. 50 FR 24533. This proposal was prompted by concerns with respect to "the potential for abuse and the appearance of impropriety" created by the ability of employees and governing members of self-regulatory organizations with possession of or access to material, non-public information as the result of performing their official duties to use confidential information "obtained in their official capacity for their personal benefit." 50 FR 24533. As such conduct could undermine the concept of industry self-regulation and diminish public confidence in self-regulatory organizations, the Commission's proposal was designed to eliminate or minimize the potential that such conduct would occur. 50 FR 24533–34. With respect to self-regulatory organization employees, the proposed rule prohibited the disclosure of material, non-public information obtained as a result of such employment and required that self-regulatory organizations adopt rules proscribing such disclosures and barring employees from trading in commodity interests on the employing contract market, related commodity interests, or in commodity interests traded on other exchanges where the employee has access to material, non-public information. These provisions applicable to self-regulatory organization employees were adopted as a final rule on November 25, 1986.

With respect to contract market and clearing organization governing members, the proposed rule would have prohibited such members having knowledge of certain final or imminent decisions of a governing board or committee from trading the contract affected by such decision or related contracts and from disclosing information concerning the decision, prior to its publication. In addition, the proposed governing members provision would have required each contract market and clearing organization to adopt rules requiring that final decisions of governing boards or committees be announced publicly before the opening of the next trading session in the affected contract. These provisions were intended to prevent the misuse of information concerning decisions that could alter materially the futures trading environment, such as decisions to revise margin levels substantially, limit trading to liquidation only, compel liquidation of positions held by major market participants, and other rule changes that could affect the prices of particular futures or option contracts. 51 FR at 44868.

Commenters voiced considerable opposition to Regulation 1.59(c) as initially proposed. Objections to the proposal included concerns relating to the scope and operation of the proposed trading prohibition, which some commenters claimed would prohibit far more trading than necessary to preserve the integrity of contract markets and could impair the ability, or diminish the willingness, of knowledgeable self-regulatory organization members who are also active traders to serve on a self-regulatory organization board of directors or its major policy and disciplinary committees.[1] Based upon its review of these and other comments, the Commission determined that the proposed restrictions upon the activities of governing members merited further consideration and possible amendment, deleted the governing member provision from Regulation 1.59 as adopted, and by **Federal Register** release of December 12, 1986 invited comment "on how best to revise the governing members provision" to address the concerns raised by the comments previously received.[2]

Nine comment letters were received in response to the Commission's December 12, 1986 request for comment.[3] Based upon these comments, the Commission has revised Regulations 1.59(a) and (c) as originally proposed and is reissuing the proposed rules for further comment. Essentially, as reformulated, proposed Regulation 1.59(c) will require self-regulatory organizations to maintain in effect rules prohibiting the disclosure or misuse of material, non-public information obtained by governing members as a result of their participation on self-regulatory organization boards or committees and rules requiring the immediate publication, except for good cause shown, of final decisions of contract market or clearing organization governing boards and committees. As revised, the proposed rule addresses the possibility of misuse of a potentially broader category of material, non-public information than the original proposal, which concerned only situations in which a governing member has knowledge of a final or imminent board or committee decision. At the same time, the revised proposed rule does not create a prohibition against trading by governing members who possess or have access to material, non-public information but, rather, requires case-by-case enforcement by the self-regulatory organizations. That process is to include surveillance of trading activity and other affirmative enforcement measures to ensure the detection and deterrence of trading activity based upon material, non-public information and other misuse of such information. In addition, the immediate publication provision has been modified such that a contract market or clearing organization may delay publication of a final decision based upon documented good cause with prompt notice thereafter to the Commission.[4]

II. Proposed ¶1.59(c)—Activities of Self-Regulatory Organization Governing Members who Possess Material, Nonpublic Information

The comments received by the Commission in response to its December 12, 1986 request for comment on the

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[1] As the Commission previously has noted, the rule was intended to have a far more limited effect and was in fact formulated "so as to confirm existing policies and to provide uniform standards that clearly identify those special instances when the board members should not trade." 51 FR 44868.

[2] 51 FR 44866 (December 12, 1986).

[3] This request elicited comment from: (1) Chicago Board of Trade; (2) Coffee, Sugar & Cocoa Exchange, Inc.; (3) Comex Clearing Association; (4) Commodity Exchange, Inc.; (5) Minneapolis Grain Exchange; (6) National Futures Association; (7) National Grain and Feed Association; (8) National Grain Trade Council; and (9) New York Mercantile Exchange.

[4] The previously proposed governing member rule would have applied only to contract markets and clearing organizations. As revised, proposed Regulation 1.59(c)(1) would apply to self-regulatory organizations, as defined in § 1.59((a)(1), thereby including the National Futures Association, reflecting reformulation of the rule to apply to the use of material, non-public information as opposed to trading activities in the context of knowledge of final or imminent decisions relevant to such trading. As previously, the final decision publication provisions of proposed Regulation 1.59(c)(2) would apply only to contract markets and clearing organizations.

governing members provision of Regulation 1.59 generally supported the view that governing members must maintain the confidentiality of sensitive information received in the performance of their official duties. Some commenters, however, questioned the necessity for Commission rulemaking to achieve that end and a substantial number questioned the specific formulation of the proposed rule. With respect to the appropriateness of Commission rulemaking, a number of commenters expressed the view that self-regulatory organizations heretofore have achieved the objective of protecting confidential information without the existence of a Commission regulation and that a history of past abuses that would be remedied by the proposed rule has not been shown to exist. As the Commission concluded in the parallel context of the potential misuse of material, non-public information by self-regulatory organization employees, however, "the prudent course of action is to take reasonable precautions to prevent any such abuses before they occur." 50 FR 24537. This is particularly true in the context of a regulatory system that contemplates significant industry self-regulation and therefore depends upon "the perceived integrity of self-regulatory organizations." 51 FR 44866.

To the extent that the self-regulatory organizations previously have established effective safeguards to assure that their governing members maintain the confidentiality of non-public information, compliance with the Commission's proposed rule should not require a material change in conduct and therefore should not be burdensome. In this connection, several commenters contended that existing exchange and clearing organization conflict of interest rules and policies that require the recusal of governing members from deliberations concerning matters in which they have personal or pecuniary interests are sufficient to achieve the objectives of the proposed rule. However, although the Commission agrees that such rules constitute important protections of the integrity of self-regulatory organization decisionmaking, they do not address all situations in which material, non-public information may be subject to misuse. For example, such provisions would not address situations when information is received by a governing member that is unrelated to a pre-existing pecuniary interest of that governing member of a governing member could not anticipate and thus recuse himself from deliberations in which he received material, non-public information concerning a matter in which he holds a substantial personal interest.

Comments concerning the formulation of Regulation 1.59(c) as originally proposed principally addressed the scope and operation of the proposed prohibition against trading by governing members in commodity interests affected by final or imminent board or committee decisions that have not yet been publicly announced. Commenters criticized the proposed rule's definition of "final decision," knowledge of which could disqualify a governing member from trading in the affected commodity, as excessively broad in that it could reach decisions unlikely to have significant price, effects, such as disciplinary actions and routine margin adjustments. Conversely, some noted that the "final decision" standard could be too limited in that confidential information received during board or committee deliberations might be exploited for personal profit during periods in which a board or committee had deferred final action. Others objected to the rule insofar as it would preclude trading in an affected commodity by governing members having "a reasonable expectation that a final decison is imminent" on the ground that the time at which a final decison will be reached may not always be precisely determinable in advance and governing members, therefore, may be uncertain as to whether they must restrict their trading activities. In addition, several commenters objected to the proposed trading prohibition as inherently inconsistent with the service of active traders on exchange governing boards or committees or as likely to interfere significantly with legitimate trading activities and there by deter participation on boards or committees. These objections generally centered upon the potential impact of the proposed trading prohibition upon the ability of governing members to adjust or liquidate pre-existing positions, for example to liquidate hedge positions upon disposition of the hedged physical commodity, and to conduct brokerage business for customers.

The immediate publication requirement, as proposed initially, was also a subject of concern to several commenters, given the procedural requirements with which the self-regulatory organizations had to comply in the event of delayed publication. Generally, the commenters stated that the public announcement requirements were overboard and were likely to restrict the flexibility of the board and committees.[5]

Alternative rules or regulatory approaches were suggested by several commenters. Several commenters urged replacement of the proposed trading prohibition with a general proscription against misuse of material, non-public information or a "performance standard" requiring each exchange to prevent the misuse of material, non-public information by developing its own rules, subject to minimum standards, to govern the disclosure or use of material, non-public information. One commenter stated that the proposed trading prohibition should be unnecessary if public announcement of final decisions were made, as required by previously proposed Regulation 1.59(c)(2), prior to the opening of the next trading session in the affected contract on that contract market or any linked exchange. Finally, two self-regulatory organizations proposed alternate rules pursuant to which governing members having knowledge of material, non-public information would be prohibited from trading in the affected contract; in one such proposal, this trading ban would not preclude the liquidation of positions established prior to the governing member's receipt of non-public, material information.

Based upon its review of the comments received to date, the Commission has determined to revise the proposed rule in several respects. First, the Commission finds merit in the view, expressed in a number of comments, that the formulation of a single uniform standard that prohibits certain trading by governing members having knowledge of a final or imminent decision of a board or committee without curtailing or inhibiting legitimate trading activity may be impracticable in the context of self-regulatory organizations in which decisionmakers are also, in many instances, active traders. The comments

[5] Other commenters voiced objections to § 1.59(c) as proposed on the grounds that: (1) The concept of a board of directors seeking to sanction a board member for violating his or her duties as a board member seems unworkable, especially for an organization, *e.g.*, clearing organization, which does not have individual members, and if a director violates his or her duties of confidentiality, the appropriate response is to seek that director's resignation or removal for cause; (2) the Commission should exclude rules adopted pursuant to Regulation 1.59 from the procedural requirements contained in self-regulatory organization rulebooks and Parts 8 and 9 of the Commission's regulations; (3) the rule should employ the "material information" standard of section 9(e) of the Commodity Exchange Act in place of the "final decision" standard of the securities law formulation of materiality.

reflect significant uncertainty as to both the kinds of decisions that could give rise to a trading ban as well as the circumstances in which a decision is sufficiently "imminent" within the meaning of the rule to give rise to a trading restriction. Although some commenters in fact advocated alternative formulations of the rule that also entailed trading bans, the Commission is of the view that the significant definitional uncertainties expressed concerning the Commission's proposed rule would apply also to the rules proposed by those commenters. In assessing potential methods of reformulating the proposed rule to define its scope more specifically so as to eliminate such uncertainties, the Commission has concluded that attainment of a satisfactory degree of specificity is likely to limit unduly the ambit of the proposed rule and thus its utility as a meaningful protection against potential abuses of confidential information.

Mindful that a trading prohibition is only one means of protecting against the abuse of confidential information, the Commission has determined that a prohibition against misuse of confidential information that does not automatically require that governing members' trading activity in affected contracts be halted is a more appropriate regulatory approach at this time. Such a standard will avoid the potential hardships associated with a trading ban but will establish a prohibition against the misuse of all material, non-public information without limitation to the originally proposed "final decision" standard.

The Commission also finds merit in the suggestions of some commenters that the Commission afford the self-regulatory organizations an opportunity to fashion their own rules, subject to minimum standards established by Commission regulation, to effectuate the goal of assuring that material, non-public information is not misused. Consequently, the Commission is proposing as revised Regulation 1.59(c)(1) a requirement that each self-regulatory organization maintain rules submitted to the Commission pursuant to section 5a(12) of the Commodity Exchange Act and Commission Regulation 1.41 (or pursuant to section 17(j) of the Act in the case of a registered futures association) that prohibit members of such self-regulatory organization's governing boards or committees from disclosing or using material, non-public information for any purposes other than the performance of such member's duties as a board or committee member. While it no longer would automatically ban trading in commodity interests as to which a governing member has material, non-public information, reformulated Regulation 1.59(c) nonetheless is intended to prohibit the use of such information as a basis for trading as well as to prohibit the disclosure or other use of such information for any purpose other than the purpose for which it was received, *i.e.*, the performance of such member's official duties as a member of a self-regulatory organization governing board or committee. Consequently, disclosure of such information to others that is not pursuant to a governing member's official duties, including to persons employed by, holding joint ownership interests with or otherwise affiliated with a governing member or such governing member's affiliated firm, as well as the use of such information by such governing member in his own trading or on behalf of others would be required to be prohibited.[6]

In determining to propose a rule which substitutes a broad prohibition against the misuse of material non-public information for a more specific prohibition relating to trading in commodity interests affected by unannounced board or committee decisions, the Commission has elected to allow the SROs, subject to Commission oversight, to give specific content to that proscription on a case-by-case basis. Thus, while § 1.59(a) (3) and (4) define material, non-public information, under the proposed rule the SROs will, in the first instance, determine the application of that standard in specific factual contexts, a process that will refine the definition of information that may not be disclosed. This approach has the benefits of affording general guidance to those affected by the rule while avoiding a degree of specificity that could unintentionally exclude improper conduct from the prohibition and permitting appropriate variations based upon the size and other particular circumstances of self-regulatory organizations.

Similarly, the minimum standard against improper use of material, non-public information that would be established by the proposed rule is intended to prohibit the use of such information in trading as well as other misuses, without the mechanism of a rigid trading ban that commenters feared could curtail *bona fide* trading activity. Trading activity by governing members following their receipt of material, non-public information would be subject to especially close scrutiny by the relevant SROs, but the precise methods by which the SROs ensure that such improper trading does not occur would, in the first instance, be open to the SROs to determine. Such methods would not necessarily include a trading prohibition or an across-the-board presumption that trading by governing members while in the possession of material, non-public information is improper, but would presumably entail, at a minimum, that SROs have adequate access to governing members' trading records, review and investigate complaints of improper trading, and maintain programs for the review of trading by governing members sufficient to detect and deter abuses of material, non-public information. Each self-regulatory organization must develop and administer a program for detecting possible violations of its rule that is sufficient to deter and detect violations, so as to provide a meaningful foundation for public confidence in the fairness of the futures markets. Those programs, of course, would be subject to oversight by the Commission. The Commission contemplates that rules complying with Regulation 1.59(c)(1) as revised must clearly permit the maximum sanctions assessable by self-regulatory organizations to be applicable in the event of a violation of such rules.

The Commission specifically invites comment as to whether in order to ensure efficacious enforcement of self-regulatory organization rules implemented pursuant to proposed Regulation 1.59(c)(1), it should adopt rules designed to facilitate self-regulatory enforcement efforts. Such rules could include, as proposed by one commenter, a requirement that self-regulatory organizations adopt rules permitting them to obtain upon request, in specified circumstances, documents related to trading in affected commodities by governing board members, or require that specific disclosures be made by board or committee members of open positions in the contract market under discussion held by the governing member and such member's affiliated firm.

Commenters generally agreed in principle with the immediate publication requirement in previously proposed Regulation 1.59(c)(2) and one exchange commenter noted that it is a current

[6] Self-regulatory organization rules implemented pursuant to proposed Regulation 1.59(c)(1) as revised would not be required to prohibit such conduct expressly but could instead state a standard for the conduct to be prohibited and provide specificity consistent therewith through the application of an affirmative compliance program.

practice on that exchange to announce final decisions prior to the commencement of the next trading session. Commenters did, however, object to the procedural requirements attendant upon a board or committee decision to delay publication, particularly the requirement of notice to the Commission by the fastest available means of communication followed promptly by a written explanation to the Commission of the reasons for such delay. One commenter contended that the approach previously proposed was too mechanistic and suggested simplification of the rule by requiring that the final decision be made public prior to the next trading session unless for good cause shown the exchange decides to delay publication and provides notice of such decision to the Commission. The Commission has reassessed the publication provision in light of the comments received, and has determined to simplify § 1.59(c)(2) such that publication of a final decision of a contract market or clearing organization governing board or committee [7] could be delayed for good cause shown provided the Commission is notified promptly in writing of such decision.[8]

Regulatory Flexibility Act

The Commission previously has determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act (5 U.S.C. 605) and that the requirements of the Act do not, therefore, apply to contract markets. 47 FR 18618 (April 30, 1982). Furthermore, the Chairman of the Commission has certified previously on behalf of the Commission that comparable rule proposals, if adopted, would not have a significant economic impact on a substantial number of small entities. *See, e.g.,* 48 FR 32835, 32836 (July 19, 1983). For the reasons set forth above, and pursuant to Section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman hereby certifies, on behalf of the Commission, that the following § 1.59 (a)(8) and (c) will not have a significant economic impact on a substantial number of small entities.

[7] The definition of "final decision" appears in proposed Regulation 1.59 (a)(9), which had been proposed previously as § 1.59(a)(6).

[8] "Good cause," while not defined in the rule, refers to such circumstances as would constitute a reasonable basis for a contract market or clearing organization governing board or committee to conclude that delaying publication would avoid otherwise likely adverse market impacts or would serve another important self-regulatory purpose. Such good cause should be recorded with particularity at the time of the decision to delay publication.

Paperwork Reduction Act

The Paperwork Reduction act of 1980, Pub. L. 96–511, 94 Stat. 2812 *et seq.*, imposes certain requirements on federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined by the PRA, 44 U.S.C. 3501 *et seq.* The Commission does not believe that § 1.59 (a)(9) and (c) will change materially the amount of information the Commission will collect from self-regulatory organizations. Any information required by the self-regulatory organization rules would be submitted to the Commission, if at all, for review pursuant to section 5a(12) of the Act and § 1.41 of the regulations, or section 17(j) of the Act or otherwise submitted under § 1.31. The Commission has notified previously and received approval of the Office of Management and Budget for the information collection which could be expected under these provisions this year. The Commission does not expect proposed § 1.59 (a)(9) and (c) to alter significantly this expectation.

List of Subjects in 17 CFR Part 1

Self-regulatory organizations, Contract markets, Clearing organizations, Registered futures associations, Contract market members, Exchange employees, Directors of contract markets and clearing organizations.

In consideration of the foregoing, and based on the authority contained in the Commodity Exchange Act and, in particular, sections 3, 4b, 5, 5a, 6, 6b, 8, 8a, 9, 17, and 23(b) thereof, 7 U.S.C. 5, 6b, 7, 7a, 8, 13a, 12, 12a, 13, 21, and 26(b) the Commission is proposing to amend Title 17, Chapter I, Part 1 of the Code of Federal Regulations by adopting new §§ 1.59 (a)(9) and (c) as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for Part 1 continues to read as follows:

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 19, 21, 23, and 24, unless otherwise rated.

2. Section 1.59 is amended by revising the section heading and by adding paragraphs (a)(9) and (c) to read as follows:

§ 1.59 Activities of self-regulatory organization employees and governing members who possess material, non-public information.

(a) * * *

(9) "Final decision of a contract market or clearing organization" means a decision made by the governing board or a committee of the contract market or clearing organization of the contract market which cannot be appealed to another body within the contract market or clearing organization and which, without further action, alters the rules of the contract market or clearing organization, or results in a member responsibility action under Commission regulation § 8.25.

* * * * *

(c) *Members of self-regulatory organization governing boards and committees.* (1) Each self-regulatory organization must maintain in effect rules which have been submitted to the Commission pursuant to section 5a(12) of the Act and Commission Regulation 1.41 (or pursuant to section 17(j) of the Act in the case of a registered futures association) which provide that no member of such self-regulatory organization governing board or of a committee of such self-regulatory organization shall use or disclose, for any purpose other than the performance of such member's official duties as a governing board or committee member material, non-public information obtained as a result of such member's participation on any committee or governing board of such self-regulatory organization.

(2) Each contract market and clearing organization of a contract market must maintain in effect rules which have been submitted to the Commission pursuant to section 5a(12) of the Act and Commission Regulation 1.41 which require that a final decision of a contract market or clearing organization governing board or committee be announced publicly prior to the opening of the next trading session in the affected contract on that contract market and prior to the opening of the next trading session in a contract based on the same commodity as that contract traded on any linked exchange; *Provided, however,* That the contract market or clearing organization may determine to delay publication of the final decision for good cause shown and with prompt written notification of the reasons for such delay to the Commission.

Issued in Washington, DC on August 24, 1987, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87–19688 Filed 8–27–87; 8:45 am]

BILLING CODE 6351-01-M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1301

Revisions of Freedom of Information Act (FOIA) Regulations

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Proposed rule.

SUMMARY: TVA proposes to revise one exemption from disclosure under the FOIA set out in its regulations in order to conform that exemption with changes made by the Freedom of Information Reform Act of 1986. TVA also proposes to redesignate the positions responsible for handling and determining initial requests and administrative appeals under the FOIA to reflect TVA organizational changes.

DATE: Comments must be received by September 28, 1987.

ADDRESS: Comments should be sent to Craven Crowell, Manager, Office of Governmental and Public Affairs, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Gilbert D. Francis, Jr., (615) 632–6000.

SUPPLEMENTARY INFORMATION: This proposed rule is not a major rule for the purpose of Executive Order 12291. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

List of Subjects in 18 CFR Part 1301

Administrative practice and procedure, Freedom of Information, Privacy, and Sunshine Acts.

For the reasons set forth in the preamble, TVA proposes to amend Title 18, Chapter XIII of the Code of Federal Regulations as follows:

PART 1301—PROCEDURES

1. The authority citation for Part 1301 continues to read as follows:

Authority: 16 U.S.C. 831–831dd, 5 U.S.C. 552, 18 U.S.C. 208(b).

2. Section 1301.1 is amended by revising paragraph (a)(7), the first sentence of paragraph (b) introductory text, the second sentence of paragraph (c)(1)(i), the first sentence of paragraph (c)(1)(ii), the third sentence of paragraph (c)(2)(ii), the second sentence of paragraph (c)(3)(i), the fourth sentence of paragraph (c)(3)(ii), and the third sentence of paragraph (e) as follows:

§ 1301.1 Records.

(a) * * *

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings,

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source,

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

* * * * *

(b) *Requests.* Requests to inspect and copy TVA records shall be directed to the Manager, Office of Governmental and Public Affairs, Tennessee Valley Authority, Knoxville, Tennessee 37902. * * *

* * * * *

(c) * * *

(1) * * *

(i) * * * Initial determinations shall be made by the Manager, Office of Governmental and Public Affairs, or the Director of Information. * * *

(ii) For purposes of this paragraph, a request is deemed to be received by TVA only when it is physically delivered to the Office of Governmental and Public Affairs and meets all the requirements of paragraph (b) of this section. * * *

(2) * * *

(ii) * * * Determinations of appeals under this section shall be made by the General Manager or the General Manager's designee. * * *

(3) * * *

(i) * * * Such extension may not exceed 10 working days, and a decision to make such extension shall be made by the Manager, Office of Governmental and Public Affairs, or the Director of Information.

(iii) * * * A decision to make an extension under this paragraph shall be made by the General Manager or the General Manager's designee.

* * * * *

(e) * * * A price list and order form for some of the most frequently asked for TVA publications and reports is contained in TVA Form 3077, which may be obtained by writing the Manager, Office of Governmental and Public Affairs, Tennessee Valley Authority, Knoxville, Tennessee 37902. * * *

W.F. Willis,

General Manager.

[FR Doc. 87–19706 Filed 8–27–87; 8:45 am]

BILLING CODE 8120–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1002, 1007, 1103, 1150, 1160, 1162, 1169, 1171, 1177, 1180 and 1182

[Ex Parte No. 246 (Sub-No. 5)]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—1987 Update

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this decision the Commission proposes to modify its costing and update formulas for calculating user fees. This decision also proposes the Commission's 1987 user fee update. The Commission is required by its regulations in 49 CFR 1002.3 to update user fees annually. We are also proposing to recalculate our fee for self-insurance applications at 49 CFR 1002.2(f)(77) and to add a new fee for petitions for substitution of applicant at 49 CFR 1002.2(f)(15).

DATE: Comments are due on September 28, 1987.

ADDRESS: An original and 15 copies of comments must be sent to: Ex Parte No. 246 (Sub-No. 5), Office of the Secretary, Case Control Branch, Room 1324, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Kathleen M. King, 202–275–7428

For costing information: William W. England, 202–275–7472. (TDD for hearing impaired: (202) 275–1721)

SUPPLEMENTARY INFORMATION: The Commission is required by its regulations in 49 CFR 1002.3 to update user fees annually. Based on our review

of the user fee program, we conclude that revisions of the costing formula and the update formula are necessary to insure that the Commission recovers all costs for providing services which lawfully can be recovered under the Independent Offices Appropriation Act of 1952, 31 U.S.C. 9701.

We are proposing to modify the original costing formula adopted in *Regulations Governing Fees For Services*, 1 I.C.C. 2d 60 (1984) [hereafter called 1984 Fee Decision] aff'd, in part, *Central & Southern Motor Freight Tariff Ass'n* v. *United States*, 777 F.2d 722, (D.C. Cir. 1985), modified in *Regulations Governing Fees for Services*, —— I.C.C. 2d — (1987), by adding the cost of fee receipts processing to the original direct labor calculation and by adding a new overhead factor for office general and administrative expenses to reflect the Commission's cost of providing space, heat and other essential services for employees who handle fee-related items.

Based on our review of the update formula in 49 CFR 1002.3, we believe that it is necessary to modify that formula to insure that the updated fees are properly calculated. Therefore, we are proposing to modify the update formula to recognize that the operations overhead factor is subject to annual change. Also, since the only "other costs" that we capture are *ICC Register* and **Federal Register** costs, we believe that it is more appropriate to calculate that factor by using the actual changes in costs for these publications rather than the change in the Consumer Price Index. Accordingly, we are proposing to change that factor to reflect actual publication cost charges.

We also are proposing to make two changes in individual items in our fee schedule in 49 CFR 1002.2(f). A new Fee Item (15) relating to petitions to substitute applicant in an operating rights proceeding is proposed. Also, our cost data and the resulting fee for existing Fee Item (77) relating to self-insurance applications are proposed to be revised to reflect charges in handling such applications.

Finally, all the costs will be revised to reflect the 1987 Government-wide general salary increase that took effect January 1, 1987. We will also modify our calculation of the Government overhead factor to reflect changes that the Office of Management and Budget has made in its current update to Circular A–76 "Cost Comparison Handbook" in the area of fringe benefits and other wage related costs. This decision should not have a significant impact upon the quality of the human environment or conservation of energy resources. Nor should it have a significant effect on a substantial number of small entities.

A copy of the Commission's full decision in this matter is available from the Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423 (202–275–7428).

List of Subjects in 49 CFR Parts 1002, 1007, 1103, 1150, 1160, 1162, 1169, 1171, 1177, 1180 and 1182

Administrative practice and Procedure.

It is ordered:

1. Title 49 of the Code of Federal Regulations is proposed to be amended as set forth below.

2. An original and 15 copies of comments on these proposed changes are due September 28, 1987.

Decided: August 11, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre and Simmons. Commissioner Sterrett dissented in part with a separate expression.

Noreta R. McGee,

Secretary.

Title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1002—FEES

1. The authority citation for this part is proposed to continue to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A), 5 U.S.C. 553, 31 U.S.C. 9701 and 49 U.S.C. 10321

§ 1002.1 [Amended]

2. In § 1002.1, the dollar amount of "$3.00" in paragraph (a) would be revised to read "$5.00".

3. In § 1002.1, the dollar amount of "$11.00" in paragraph (c) would be revised to read "$12.00".

4. In § 1002.1, the table in paragraph (f)(6) would be revised to read as follows:

GS–1	$5.22
GS–2	5.69
GS–3	6.41
GS–4	7.20
GS–5	8.05
GS–6	8.97
GS–7	9.97
GS–8	11.04
GS–9	12.20
GS–10	13.43
GS–11	14.76
GS–12	17.69
GS–13	21.03
GS–14	24.85
GS–15 and above	29.23

5. In § 1002.2, paragraph (f) would be revised to read:

§ 1002.2 Filing fees.

* * * * *

(f) Schedule of filing fees.

Type of proceedings	Fees
Part 1: Non-Rail Applications for Operating Authority or Exemptions	
(1) An application for motor carrier operating authority; a certificate of registration including a certificate of registration for certain foreign carriers; broker authority; water carrier operating or exemption authority; or household goods freight forwarder authority	$200
(2) A fitness only application for motor common carrier authority under 49 U.S.C. 10922(b)(4)(E) or motor contract authority under 49 U.S.C. 10923(b)(5)(A) to transport food and related products	100
(3) A petition to interpret or clarify an operating authority under 49 CFR 1160.64	2,000
(4) A request seeking the modification of operating authority only to the extent of making a ministerial correction, when the original error was caused by applicant, a change in the name of the shipper or owner of a plantsite or the change of a highway name or number	30
(5) A petition to renew authority to transport explosives under 49 U.S.C. 10922 or 10923	30
(6) An application to remove restriction or broaden unduly narrow authority under 49 CFR Part 1165	200
(7) An application for authority to deviate from authorized regular route authority 49 U.S.C. 10923	100
(8) An application for motor carrier or water carry temporary authority under 49 U.S.C. 10928(b)	90
(9) An application for motor carrier temporary authority under 49 U.S.C. 10928(c)(1)	70
(10) An extension of the time period during which an outstanding application for emergency temporary authority as defined in 49 U.S.C. 10928(c)(1) may continue	17
(11) Request for name change of carrier, broker, or household goods freight forwarder	7
(12) A notice required by 49 U.S.C. 10524(b) to engage in compensated intercorporate hauling including an updated notice required by 49 CFR 1167.4	60
(13) A notice of intent to operate under the agricultural co-operative exemption in 49 U.S.C. 10526(a)(5)	60
(14) [Reserved]	
(15) A joint petition to substitute applicant in a pending operating rights proceedings	20
(16) [Reserved]	
Part II: Non-Rail Applications To Discontinue Transportation	
(17) A notice or petition to discontinue ferry service 49 U.S.C. 10908	8,100
(18) A petition to discontinue motor carrier of passenger transportation in one State	500
(19) [Reserved]	
Part III: Non-Rail Applications To Enter Upon a Particular Financial Transaction or Joint Arrangement	
(20) An application for the pooling or division of traffic	1,500
(21) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor or water carrier or carriers under 49 U.S.C. 11343	750
(22) An application for approval of a non-rail rate association agreement. 49 U.S.C. 10706	9,900
(23) An application for approval of an amendment to a non-rail rate association agreement:	
(i) Significant Amendment	4,700
(ii) Minor Amendment	30
(24) An application for temporary authority to operate a motor or water carrier. 49 U.S.C. 11349	150
(25) An application to transfer or lease a certificate or permit, including a certificate of registration, and a broker license or change of control of companies holding broker's license 49 U.S.C. 10926, or a transfer of a water carrier exemption authorized under 49 U.S.C. 10542 and 10544	200
(26) An application for approval of a motor vehicle rental contract. 49 CFR 1057.41(d)	150

Type of proceedings	Fees
(27) A petition for exemption under 49 U.S.C. 11343(e)	200
(28)–(32) [Reserved]	
Part IV: Rail Applications for Operating Authority	
(33) (a) An application for a certificate authorizing the construction, extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901	2,600
(b) Exempt transaction under 49 C.F.R. 10901	550
(34) Feeder Line Development Program application filed under 49 U.S.C. 10910 (b)(1)(A)(i)	3,200
(35) A Feeder Line Development Program application filed under 49 U.S.C. 10910(b)(1)(A)(ii)	1,800
(36)—(37) [Reserved]	
Part V: Rail Applications to Discontinue Transportation Services	
(38) An application for authority to abandon all or a portion of a line of railroad or operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the North East Rail Service Act, bankrupt railroads or exempt abandonments under 49 CFR 1152.50)	2,100
(39) An application for authority to abandon all or a portion of a line of railroad or operation thereof filed by Consolidated Rail Corporation pursuant to North East Rail Service Act	150
(40) Abandonments filed by bankrupt railroads. 49 CFR 1152.40	650
(41) Exempt abandonments. 49 CFR 1152.50	750
(42) A notice or petition to discontinue passenger train service	8,100
(43) [Reserved]	
Part VI: Rail Applications To Enter Upon a Particular Financial Transaction or Joint Arrangement	
(44) An application for use of terminal facilities or other application. 49 U.S.C. 11103	6,800
(45) An application for the pooling or division of traffic. 49 U.S.C. 11342	4,700
(46) An application for two or more carriers to consolidate or merge their properties or franchises or a part thereof, into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11343.	
(i) Major transaction	100,000
(ii) Significant transaction	20,000
(iii) Minor transaction	2,200
(iv) Exempt transaction [49 CFR 1080.2(d)]	550
(v) Responsive application	2,200
(47) An application of a noncarrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11343.	
(i) Major transaction	100,000
(ii) Significant transaction	20,000
(iii) Minor transaction	2,200
(iv) Exempt transaction [49 CFR 1080.2(d)]	550
(v) Responsive application	2,200
(48) An application to acquire trackage rights over, joint ownership in, or joint use of, any railroad lines owned and operated by any other carrier and terminals incidental to thereto. 49 U.S.C. 11343.	
(i) Major transaction	100,000
(ii) Significant transaction	20,000
(iii) Minor transaction	2,200
(iv) Exempt transaction [49 CFR 1080.2(d)]	500
(v) Responsive application	2,200
(49) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11343.	
(i) Major transaction	100,000
(ii) Significant transaction	20,000
(iii) Minor transaction	2,200
(iv) Exempt transaction [49 CFR 1080.2(d)]	550
(v) Responsive application	2,200
(50) An application for a determination of fact of competition. 49 U.S.C. 11321(a)(2) or (b)	20,000
(51) An application for approval of, or to amend, a rail rate association agreement. 49 U.S.C. 10706	25,100
(52) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706	
(i) Significant Amendment	4,700
(ii) Minor Amendment	30
(53) An application for authority to hold a position as officer or director. 49 U.S.C. 11322	250
(54) (a) An application to issue securities; an application to assume obligation or liability in respect to securities of another; an application or petition for modification of an outstanding authorization, or an application for exemption for competitive bidding requirements of Ex Parte No. 158, 49 CFR 1175.10. 49 U.S.C. 11301	1,200
(b) An exempt transaction under 49 CFR 1175	550
(55) A petition for exemption (other than a rule-making) filed by rail carriers. 49 U.S.C. 10505	650
(56) An application for forced sale of bankrupt railroad lines. 49 CFR 1180. 40–49, 45 U.S.C. 915	1,400
(57)–(58) [Reserved]	
Part VII: Formal Proceedings	
(60) A complaint alleging unlawful rates or practices of carriers, property brokers or freight forwarders of household goods	500
(61) A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates, fares or charges. 49 U.S.C. 10705(f)(1)(A)	1,500
(62) A petition for declaratory order:	
(i) A petition for declaratory order involving dispute over an existing rate or practice which is comparable to a complaint proceeding	500
(ii) All other petitions for declaratory order	850
(63) Requests for nationwide and regional collectively filed general rate increases and major rate restructures accompanied by supporting cost and financial information justifying the increase	5,500
(64) A petition for exemption from filing tariffs by water and bus carriers	150
(65) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	2,500
(66) Petition for review of state regulations of intrastate rates, rules or practices filed by interstate rail carriers. 49 U.S.C. 11501	500
(67) Petition for review of state regulations of intrastate rates, rules or practices filed by interstate bus carriers. 49 U.S.C. 11501	500
(68)–(71) [Reserved]	
Parte VII: Informal Proceedings	
(72) An application for authority to establish released value rates or ratings under 49 U.S.C. 10730 (Except that no fee will be assessed for applications seeking such authority in connection with reduced rates established to relieve distress caused by drought or other natural disaster)	400
(73) An application for special permission for short notice or the waiver of other tariff publishing requirements	40
(74) The filing of tariffs, rate schedules and contracts including supplements (per series transmitted)	7
(75) Special docket application from rail and water carriers. (There is no fee for requests involving sums of $5,000 or less)	50
(76) Informal complaint about rail rate application	100
(77) An application for original qualification as self-insurer	250
(78) A service fee for insurer, surety or self-insurer accepted certificate of insurance or surety bond. The fee is based on a formula of $10 per accepted certificate of insurance or surety bond as indication of ICC insurance activity. (There is a $50 annual minimum.) (per accepted certificate)	10
(79) A petition for waiver of any provision of the lease and interchange regulations. 49 CFR Part 1057	300
(80) A petition for reinstatement of revoked operating authority	40
(81)–(82)	
(83) Petition for reinstatement of a dismissed operating rights application	200
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6. In § 1002.3, paragraphs (d) (2) through (4) would be revised as follows:

§ 1002.3 Updating user fees.

* * * * *

(d) * * *

(2) Operations overhead shall be developed each year on the basis of current relationships existing on a weighted basis, for indirect labor applicable to the first supervisory work centers directly associated with user fee activity. Actual updating of operations overhead will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead costs.

(3)(i) Office general and administrative costs shall be developed each year on the basis of current level costs, i.e., dividing actual office general and administrative costs for the current fiscal year by total office costs for the Offices and Bureaus directly associated with user fee activity. Actual updating of office general and administrative costs will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead and current operations overhead costs.

(ii) Commission general and administrative costs shall be developed each year on the basis of current level costs, i.e., dividing actual Commission general and administrative costs for the current fiscal year by total agency expenses for the current fiscal year. Actual updating of Commission general and administrative costs will be accomplished by applying the current percentage factor to updated direct labor, including current governmental overhead, operations overhead and office general and administrative costs.

(4) Publication costs shall be adjusted on the basis of known changes in the costs applicable to publication of material in the **Federal Register** or *ICC Register.*

* * * * *

PART 1007—RECORDS CONTAINING INFORMATION ABOUT INDIVIDUALS

7. In Part 1007, the authority citation would be revised to read:

Authority: 5 U.S.C. 552, 553, and 559.

§ 1007.5 [Amended]

8. In § 1007.5 paragraph (f), the phrase "of 10 cents per letter size or legal size exposure duplicated electrostatically" would be revised to read "set forth in 49 CFR 1002.1(d)".

PART 1103—PRACTITIONERS

9. The authority citation for Part 1103 would continue to read:

Authority: 49 U.S.C. 10308 and 10321; 5 U.S.C. 559.

10. In § 1103.3 paragraphs (d), (k), (l), and (m) are proposed to be revised to read:

§ 1103.3 Persons not attorneys-at-law—qualifications and requirements for practice before the Commission.

* * * * *

(d) *Application fee.* Each application filed pursuant to this rule must be accompanied by the non-refundable fee in the amount set forth in 49 CFR 1002.2(f)(100). Payment must be made either by check or money order payable to the Interstate Commerce Commission. Cash payment will not be accepted.

* * * * *

(k) *Failing or postponing the examination.* Applicants who fail the examination may reapply by submitting a request in writing with an additional filing fee in the amount set forth in 49 CFR 1002.2(f)(100). Applicants who postpone taking the examination three times without showing good cause will have their applications returned.

(l) The filing fee in the amount set forth in 49 CFR 1002.2(f)(100) is not refundable.

(m) Any application resubmitted to the Commission after being returned must be accompanied by a filing fee in the amount set forth in 49 CFR 1002.2(f)(100).

* * * * *

PART 1150—CERTIFICATE TO CONSTRUCT, ACQUIRE OR OPERATE RAILROAD LINES

11. The authority citation for Part 1150 would be revised to read:

Authority: 49 U.S.C. 10321, 10326, 10901, 10903, 10505; 5 U.S.C. 553 and 559.

§ 1150.10 [Amended]

12. In § 1150.10, paragraph (b) would be amended by removing the sentence "A $700 fee is required to file an application (49 CFR 1002.2(d)(1))." and substituting in its place "A filing fee in the amount set forth in 49 CFR 1002.2(f)(33) is required to file an application.".

PART 1160—HOW TO APPLY FOR OPERATING AUTHORITY

13. The authority citation for Part 1160 would continue to read:

Authority: 49 U.S.C. 10101, 10305, 10321, 10921, 10922, 10924, and 11102; 5 U.S.C. 553; 16 U.S.C. 1456.

14. In § 1160.64, paragraph (b) would be revised to read:

§ 1160.64 Petition to clarify or interpret formally an operating authority.

* * * * *

(b) No application form need be used. Petitioner shall file its entire argument with the petition, with the fee in the amount set forth in 49 CFR 1002.2(f)(3). The petition shall be sent to the Office of the Secretary.

* * * * *

PART 1162—TEMPORARY AUTHORITY (TA) AND EMERGENCY TEMPORARY AUTHORITY (ETA) PROCEDURES UNDER 49 U.S.C. 10928

15. The authority citation for Part 1162 would continue to read:

Authority: 49 U.S.C. 10321, 10928; 5 U.S.C. 559.

16. In § 1162.2 paragraph (c) would be revised to read:

§ 1162.2 Filing of applications.

* * * * *

(c) *Filing fees.* A filing fee in the amount set forth in 49 CFR 1002.2(f)(8) shall accompany each temporary authority application. The filing fee for ETA applications is set forth in 49 CFR 1002.2(f)(9). If applicant seeks any extension of the ETA, a filing fee in the amount set forth in 49 CFR 1002.2(f)(10) is required.

* * * * *

§ 116.2.2 [Amended]

17. In § 1162.2 paragraph (e)(4)(ii), the first sentence of that paragraph would be revised to read: "Any request for extension of ETA, not conforming to the rules in paragraph (e)(4)(i) of this section shall be made by filing an original and two (2) copies of form OCCA–19 and shall be accompanied by the fee set forth in 49 CFR 1002.2(f)(10).". The rest of the text of the paragraph would remain unchanged.

PART 1169—RULES GOVERNING DISCONTINUING BUS TRANSPORTATION IN ONE STATE

18. In Part 1169, the authority citation would continue to read:

Authority: 49 U.S.C. 10321 and 10935; 5 U.S.C. 553.

§ 1169.3 [Amended]

19. In § 1169.3, the last sentence of the section would be revised to read "The filing fee is set forth in 49 CFR 1002.2(f)(67).".

PART 1171—RULES GOVERNING APPLICATIONS FOR CERTIFICATES OF REGISTRATION BY FOREIGN MOTOR CARRIERS AND FOREIGN MOTOR PRIVATE CARRIERS UNDER 49 U.S.C. 10530

20. In Part 1171, the authority citation would continue to read:

Authority: 49 U.S.C. 10922 and 10530; 5 U.S.C. 553.

21. In § 1171.5 paragraph (a) would be revised to read:

§ 1171.5 Where to send the application.

(a) The original and one copy shall be sent to the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, with the filing fee set forth in 49 CFR 1002.2(f)(1). A check or money order for that amount payable to the Interstate Commerce Commission in United States dollars must be submitted.

* * * * *

PART 1177—RECORDATION OF DOCUMENTS

22. The authority citation in Part 1177 would continue to read:

Authority: 49 U.S.C. 10321 and 11303; 5 U.S.C. 559.

23. In § 1177.3, paragraph (c) would be revised to read:

§ 1177.3 Requirements for submission.

* * * * *

(c) Be accompanied by the fee set forth in 49 CFR 1002.2(f)(84). However, assignments which are executed prior to the filing of the primary document and which are submitted concurrently will be treated along with the primary document as one for fee purposes and will be assessed only one fee. A lease and agreement (Philadelphia Plan) shall be similarly treated.

* * * * *

PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES

24. The authority citation in Part 1180 would continue to read:

Authority: 49 U.S.C. 10321, 10505, 10903–10906, 11341, 11343–11346; 5 U.S.C. 553 and 599; 45 U.S.C. 904 and 915.

25. In § 1180.4, paragraph (c)(1) would be revised to read:

§ 1180.4 Procedures.

* * * * *

(c) * * *

(1) The fee to file a primary application with the Commission under these procedures is set forth at 49 CFR 1002.2(f)(46) through (49). There is no filing fee for a directly related application filed by a party that filed the primary application. The fee for a directly related or responsive application filed by another party is set forth in 49 CFR 1002.2(f)(46) through (49). For a finance-related exemption filed by a party, the fee is set forth in 49 CFR 1002.2(f)(46) through (49).

* * * * *

26. In 49 CFR 1180.41, paragraph (d) would be revised to read:

§ 1180.41 Submission and contents of offers.

* * * * *

(d) Applications shall be accompanied by a filing fee in the amount set forth in 49 CFR 1002.2(56).

PART 1182—MOTOR CARRIER OF PASSENGERS APPLICATIONS TO CONSOLIDATE, MERGE OR ACQUIRE CONTROL UNDER 49 U.S.C. 11343-11344

27. The authority citation in Part 1182 would continue to read:

Authority: 49 U.S.C. 10321 and 11343, 11344 and 11345a; 5 U.S.C. 559.

§ 1182.1 [Amended]

28. In § 1182.1, paragraph (b), the third sentence beginning with the words "The filing fee" and ending with the words "Interstate Commerce Commission" would be removed and the following sentence substituted in its palce "The filing fee set forth at 49 CFR 1002.2(f)(21) must be paid at the time and place of application with a check or money order made payable to the Interstate Commerce Commission.".

29. In § 1182.5, paragraph (c)(1) would be revised to read:

§ 1182.5 Processing temporary authority application filed under 49 U.S.C. 11349 corresponding to application filed under 49 U.S.C. 11343 through 11344 or 10926.

* * * * *

(c) *Starting the application process.* (1) Persons seeking temporary authority under this section shall properly complete application form OP-F-46. The application fee is set forth in 49 CFR 1002.2(f)(26).

* * * * *

[FR Doc. 87-19917 Filed 8-27-87; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Part 1084

[Ex Parte No. MC-181]

Elimination of Cargo Liability Security Requirements for Freight Forwarders of Non-Household Goods

AGENCY: Interstate Commerce Commission.

ACTION: Discontinuance of proposed rulemaking proceeding.

SUMMARY: By decision served December 8, 1986, the Commission requested comments on a proposal to amend the regulations at 49 CFR Part 1084 to eliminate cargo liability security requirements for non-household goods freight forwarders and to make conforming changes in rules governing surety bonds and policies of insurance. 51 FR 44318 (December 9, 1986). The proposed rule revisions followed enactment of the Surface Freight Forwarder Deregulation Act of 1986, Pub. L. 99-521, 100 Stat. 2293, effective December 21, 1986. The Act substantially removed the Commission's regulatory jurisdiction over the non-household goods segment of the surface freight forwarding industry, but preserved its discretion to impose cargo liability security requirements on all forwarders. The Commission has determined to defer action on the proposed revision until it has had an opportunity to evaluate the experiences of forwarders and transportation consumers in the newly deregulated environment. Accordingly, it is discontinuing this proceeding.

EFFECTIVE DATE: This decision will be effective August 28, 1987.

FOR FURTHER INFORMATION CONTACT:

Suzanne Higgins, (202) 275-7203
or
Andrew Lyon, (202) 275-7691.
(TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: The Commission's decision contains additional information. To purchase a copy of the decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357 (assistance for the hearing impaired is available through TDD services (202) 275-1721) or through pickup from TSI in Room 2229 at Commission headquarters.

This action will not affect significantly the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1084

Freight forwarders, Insurance, Surety bonds.

Authority: Pub. L. 99-521, 49 U.S.C. 10321 and 10927, and 5 U.S.C. 553.

Decided: August 17, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Lamboley. Chairman Gradison, joined by Commissioner Andre dissented with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 87-19784 Filed 8-27-87; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 52, No. 167
Friday, August 28, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

National Bureau of Standards

[Docket No. 51295-7138]

Approval of Federal Information Processing Standards Publication 68-2, BASIC

AGENCY: National Bureau of Standards, Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce (Secretary) has approved Federal Information Processing Standards Publication (FIPS PUB) 68-2, BASIC. This standard will replace FIPS PUB 68-1, Minimal BASIC.

SUMMARY: On January 13, 1986, notice was published in the **Federal Register** (51 FR 1418) that a revised Federal Information Processing Standard for BASIC was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended that the Secretary approve the standard as a Federal Information Processing Standard (FIPS) and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

This approved revised standard contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice.

DATE: This standard is effective March 1, 1988. Immediate use by Federal agencies is strongly recommended when the use of FIPS BASIC would contribute to operational benefits, efficiency, or economy.

ADDRESS: Interested parties may purchase copies of this revised standard, including the technical specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies section of the announcement portion of the FIPS PUB.

FOR FURTHER INFORMATION CONTACT: Ms. Mabel Vickers, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 975-3277.

Ernest Ambler,
Director.

Date: August 19, 1987.

Federal Information Processing Standard Publication 68-2

(date)

Announcing the Standard for BASIC

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to Section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. Name of Standard

Basic (FIPS PUB 68-2).

2. Category of Standard.

Software Standard, Programming Language.

3. Explanation

This publication announces the adoption of American National Standard for BASIC, ANSI X3.113-1987, as a Federal Information Processing Standard (FIPS). This FIPS supersedes FIPS PUB 68-1, Minimal BASIC, and reflects major changes, improvements, and additions to the BASIC specifications. The American National Standard for BASIC, ANSI X3.113-1987, specifies the form and establishes the interpretation of programs expressed in the BASIC programming language. The purpose of the standard is to promote portability of BASIC programs for use on a variety of data processing systems. The standard is for use by implementors as the reference authority in developing compilers, interpreters, or other forms of high level language processors; and by other computer professionals who need to know the precise syntactic and semantic rules adopted by ANSI.

4. Approving Authority

Secretary of Commerce.

5. Maintenance Agency

Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. Cross index

American National Standard ANSI X3.113-1987, BASIC.

7. Related Documents

a. Federal Information Resources Management Regulation 201-8.1, Federal ADP and Telecommunications Standards.

b. Federal Information Processing Standards Publication 29 (current version), Interpretation Procedures for Federal Information Processing Standard Programming Languages.

c. NBS Special Publication 500-117, Selection and Use of General-Purpose Programming languages.

8. Objectives

Federal standards for high level programming languages permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal programming language standards are:

—To encourage more effective utilization and management of programmers by insuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer re-training;

—To reduce the cost of program development by achieving the increased programmer productivity

that is inherent in the use of high level programming languages;
—To reduce the overall software costs by making it easier and less expensive to maintain programs and to transfer programs among different computer systems, including replacement systems;
—To protect the existing software assets of the Federal Government by insuring to the maximal feasible extent that Federal programming language standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. Applicability

a. Federal standards for high level programming languages should be used for computer applications and programs that are either developed or acquired for Government use. FIPS BASIC is one of the high level programming language standards provided for use by all Federal departments and agencies. FIPS BASIC is suitable for use in relatively simple applications, especially those with a high degree of user interaction. The features of BASIC support use by non-professional programmers, i.e., those whose primary skill is not programming, who may need to write their own programs.

b. The use of FIPS high level programming languages is strongly recommended when one or more of the following situations exists:
—It is anticipated that the life of a program will be longer than the life of the presently utilized equipment
—The application or program is under constant review for updating of the specifications, and changes may result frequently
—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models, and configurations
—The program will or might be run on equipment other than that for which the program is initially written
—The program is to be understood and maintained by programmers other than the original ones
—The advantages of improved program design, debugging, documentation, and intelligibility can be obtained through the use of this high level language regardless of interchange potential
—The program is or is likely to be used by organizations outside the the Federal Government (i.e., State and local governments, and others)

c. Nonstandard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. Although nonstandard language features can be very useful, it should be recognized that their use may make the interchange of programs and future conversion to a revised standard or replacement processor more difficult and costly.

d. It is recognized that programmatic requirements may be more economically and efficiently satisfied through the use of application-oriented software package. The use of any facility should be considered in the context of system life, system cost, data integrity, and the potential for data sharing.

e. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is a BASIC source program, then the resulting program should conform to the conditions and specifications of FIPS BASIC.

10. Specifications

FIPS BASIC specifications are the language specifications contained in American National Standard for BASIC, ANSI X3.113–1987.

The ANSI X3.113–1987 document defines the syntax and semantics of the BASIC language by specifying requirements for a conforming processor and program, the formats of data (including range and precision of numbers, and length of character strings) which can be manipulate by a BASIC program, and the syntactic errors and run-time exceptions which must be detected by a conforming implementation.

The standard does not specify a minimum for the size or complexity of programs which must be acceptable to an implementation.

11. Implementation

The implementation of FIPS BASIC involves three areas of consideration: acquisition of BASIC processors, interpretation of FIPS BASIC, and validation of BASIC processor.

11.1 *Acquisition of BASIC Processors*

This publication is effective March 1, 1988. BASIC processors acquired for Federal government use after this date should implement this standard. Conformance to FIPS BASIC should be considered whether BASIC processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition time period provides time for industry to produce BASIC processors conforming to the standard. The transition period begins on the effective date and continues for one (1) year thereafter. The following apply during the transition period:

a. The provisions of FIPS PUB 68–1 apply to processors ordered before the effective date of this publication but delivered subsequent to the effective date.

b. The provisions of this publication apply to orders placed after the effective date; however, a processor conforming to FIPS PUB 68–1 may be acquired for interim use until the conforming processor is available.

11.2 *Interpretation of FIPS BASIC*

NBS provides for the resolution of questions regarding FIPS BASIC specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of FIPS BASIC should be addressed to: Director, Institute for Computer Sciences and Technology, Attn: BASIC Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

11.3 *Validation of BASIC Processor*

The National Bureau of Standards, Institute for Computer Sciences and Technology, provides a service for the purpose of validating the conformance of processors to FIPS languages offered for Federal procurement. This service is offered on a reimbursable basis. Further information about the validation service can be obtained from the National Bureau of Standards, Institute for Computer Sciences and Technology, Software Standards Validation Group, Gaithersburg, MD 20899, (301) 975–3247.

12. Where to Obtain Copies

Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 68–2 (FIPSPUB68–2), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 87–19803 Filed 8–27–87; 8:45 am]
BILLING CODE 3510-CN-M

[Modification No. 1 to Permit No. 504]

National Oceanic and Atmospheric Administration

Marine Mammals Permit Modification; Sea World, Inc.

Notice is hereby given that pursuant to the provisions of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), and section C.4 of Public Display Permit No. 504 issued to Sea World, Inc., 1720 South Shores Road, San Diego, California 92109 on June 6, 1985 (50 FR 25113, June 17, 1985), that Permit is modified as follows:

Section A is modified by adding: "2. The Permit Holder is authorized to take a seventh false killer whale *(Pseudorca crassidens)* by the means described in the application."

This modification became effective on August 21, 1987.

The Permit, as modified, and documentation pertaining to the modification are available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, Room 805, Washington, DC; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Date: August 21, 1987.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87-19764 Filed 8-27-87; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; The North Gulf Oceanic Society (P351B)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 through 1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531 through 1544) and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217 through 222).

1. Applicant:

a. Name: The North Gulf Oceanic Society.

b. Address: P.O. Box 156, Cordova, Alaska 99574.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals: Humpback whales *(Megaptera novaeangliae)* 300.

4. Type of Take: To inadvertently harass humpback whales during photo identification research in Prince William Sound, Alaska and the Kona coast of the Island of Hawaii.

5. Location of Activity: Prince William Sound, Alaska and the Kona coast of the Island of Hawaii.

6. Period of Activity: 3 Years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC;

Director, National Marine Fisheries Service, Alaska Region, 709 West 9th Street, Federal Building, Juneau, Alaska 99802;

Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115; and

Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731-7415.

Dated: August 21, 1987.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87-19765 Filed 8-27-87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENT

Deduction in Charges of Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Haiti

August 24, 1987.

The Chairman of the Committee for the Implementaion of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, the President's February 20, 1986 announcement of a Special Access Program for textile products assembled in participating Caribbean Basin beneficiary countries from fabric formed and cut in the United States, and pursuant to the requirements set forth in 51 FR 21208 (June 11, 1986) and 52 FR 26057 (July 10, 1987), has issued the directive published below to the Commissioner of Customs to be effective on August 31, 1987. For further information contact Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Summary

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to deduct 75,000 dozen from the restraint limit established for Category 347/348 and 19,578 dozen from Category 341/641 for the twelve-month period which began on January 1, 1987 and extends through December 31, 1987. Subsequently, these same amounts will be charged to the guaranteed access levels established for properly certified textile products in Categories 347/348 and 341/641 which are assembled in Haiti from fabric formed and cut in the United States and exported from Haiti during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Background

On January 13, 1987 a notice was published in the **Federal Register** (52 FR 1371) announcing import restraint limits for certain cotton and man-made fiber textile products, including Categories 347/348 and 341/641, produced or manufactured in Haiti and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

A further notice was published in the **Federal Register** on February 27, 1987 (52 FR 6053) which announced guaranteed access levels for properly

certified textile products assembled in Haiti from fabric formed and cut in the United States, including products in Categories 347/348 and 341/641.

During consultations held on May 11 and 12, 1987 between the Governments of the United States and Haiti, the United States agreed to deduct 75,000 dozen from charges made to the designated consultation level established for Category 347/348 for the period which began on January 1, 1987 and extends through December 31, 1987. These goods were charged to the designated consultation level because of the unavailability of proper documentation (CBI Export Declaration (Form ITA-370P)) required for entry under TSUSA 807.0010. Subsequent to the consultations, documentation was provided to the U.S. Government establishing that goods in Category 341/641 were assembled exclusively from U.S. formed and cut fabric and qualified for entry under the guaranteed access level. Based on this documenation, the U.S. Government has agreed to deduct 19,578 dozen from the designated consultation level for Category 341/641. Consequently, charges will be made to the guaranteed access levels established for Categories 347/348 and 341/641, in the amounts of 75,000 dozen and 19,578 dozen, respectively.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1987).

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

August 24, 1987.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement of December 18, 1986 between the Governments of the United States and Haiti, I request that, effective on August 31, 1987 you deduct the following amounts from the charges made to the import restraints limits established in the directive of December 31, 1986 for Categories 341/641 and 347/348, produced or manufactured in Haiti and exported during the twelve-month period which began on January 1, 1987 and extends through December 31, 1987.

Category	Amount to be deducted
341	19,578 doz.
347	31,540 doz.
348	43,460 doz.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

This letter will be published in the **Federal Register.**

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-19802 Filed 8-27-87; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1987; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletions from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1987 commodities produced by and services provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: September 28, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On August 1, 1986, June 5, and June 26, 1987, the Committee for Purchase for the Blind and Other Severely Handicapped published notices (52 FR 21344, 24048, and 24049) of additions to and deletions from Procurement List 1987, November 3, 1986 (51 FR 39945).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46 through 48c, 85 Stat. 77 and 41 CFR 51-2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodity and services listed.

c. The action will result in authorizing small entities to produce the commodity and provide the services procured by the Government.

Accordingly, the following commodity and services are hereby added to Procurement List 1987:

Commodity

Firing Attachment, Blank

1005-00-118-6192

Services

Commissary Shelf Stocking

Custodial and Warehousing

Hill Air Force Base, Utah

Janitorial/Custodial

Hale Boggs Federal Building and U.S. Courthouse, 500 Camp Street, New Orleans, LA

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77 and 41 CFR 51-2.6.

Commodities

Mat, Floor

7220-00-151-6517

Wood Container (with skids)

8115-L1-599-7820
8115-L1-599-8120
8115-L1-465-0920
8115-L1-466-4120

Service

Commissary Shelf Stocking

Naval Air Station, Fallon, NV

C.W. Fletcher,

Executive Director.

[FR Doc. 87-19781 Filed 8-27-87; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1987; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1987 a commodity to be produced by and services to be provided by the workshops for the blind or other severely handicapped.

DATES: Comments Must Be Received on or Before: September 28, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51–2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1987, November 3, 1986 (51 FR 39945).

Commodity

Buckle, Belt

8315–00–598–6278

Services

Janitorial Service

Federal Building, U.S. Post Office and Courthouse, 211 West Ferguson Avenue, Tyler, TX

Sorting of Hardware and Small Hand Tools

Robins Air Force Base, GA

C.W. Fletcher,

Executive Director.

[FR Doc. 87–19782 Filed 8–27–87; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF ENERGY

Proposed Finding of No Significant Impact; Fuel Processing Restoration Project, Idaho National Engineering Laboratory

AGENCY: Department of Energy.

ACTION: Proposed finding of no significant impact.

SUMMARY: The Department of Energy (DOE) has prepared an environmental assessment (EA) on the proposed Fuel Processing Restoration (FPR) project at the Idaho Chemical Processing Plant (ICPP) at the Idaho National Engineering Laboratory (INEL). The FPR project includes two proposed actions: (1) To construct and operate a replacement facility, the Fuels Processing Facility (FPF), which will process recoverable irradiated naval and research reactor fuel and recover uranium for reuse in defense programs; and (2) to install and operate a new liquid low-level waste (LLW) treatment and disposal system to improve ICPP waste management practices. New facilities are needed because the existing ICPP facilities are not expected to be able to process anticipated increases in recoverable irradiated naval fuel receipts.

The EA examined and compared the environmental impacts of the proposed FPR project and reasonable alternatives. Based on the analyses in the EA the DOE believes that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.*, and, as such, proposes to issue a finding of no significant impact (FONSI). The proposed FONSI and the supporting EA are being made available for public review for a period of 30 days following the date of this notice. Following completion of the public review period, DOE will make its final determination on whether to issue a FONSI or to prepare an environmental impact statement (EIS) for the proposed FPR project.

ADDRESSES: Copies of the EA are available from: Mr. Peter Mygatt, U.S. Department of Energy, Idaho Operations Office, Office of External Affairs, 785 DOE Place, Idaho Falls, ID 83402, (208) 526–1318.

FOR FURTHER INFORMATION CONTACT: Carol Borgstrom, U.S. Department of Energy, Office of NEPA Project Assistance, 1000 Independence Avenue, SW., Room 3D–080, Washington, DC 20585, (202) 586–4600.

Comments

Comments on the proposed FONSI may be sent to Mr. P. Mygatt at the address above. Comments must be received within 30 days of the date of this notice to assure consideration.

Background

The Idaho Chemical Processing Plant (ICPP) is located in the south central portion of the 890-square mile Idaho National Engineering Laboratory (INEL) reservation, on the eastern Snake River Plain in southeastern Idaho. The ICPP began operation in 1951 to support the Atomic Energy Commission's (DOE's predecessor) reactor testing program. Today, the ICPP primarily supports naval reactor programs. As part of the nuclear fuel cycle, nuclear fuels produced under contract to DOE are utilized by naval reactors and research reactors. Recoverable irradiated reactor fuels are returned to the ICPP and revert to DOE control. These recoverable irradiated fuel cells are processed to produce solid uranium trioxide. This recovered uranium is recycled to other DOE facilities for final processing and utilization in fuel fabrication.

I. Processing Requirements

The primary mission of the ICPP is to process recoverable irradiated naval reactor fuels. Recent ICPP fuel-receiving projections show the facility operating mission extending to at least the year 2030. The projections identify major increases in future fuel-processing requirements, with the facility's second 40-year (1990–2030) throughput expected to be up to four times greater than the throughput of the first 40 years (1950–1990). Detailed studies of the current ICPP maximum processing capacity indicate a capability less than 50% of future requirements, with the existing fuel storage basin capacity being exhausted by 1994, necessitating construction of additional storage basins if the FPF is not constructed.

In response to the increased fuel processing requirements, the Fuels Processing Facility (FPF) is proposed to replace the existing ICPP uranium recovery process (i.e., extraction and denitration) equipment that is housed in building 601 of the Chemical Processing Plant (CPP–601). The FPF processing would take place in sequence between the ICPP headend process [Fluorinel Dissolution Process and Fuel Storage Facility (FAST)], and the waste management activities provided by the recently commissioned New Waste Calcining Facility (NWCF).

In addition to timely processing of recoverable irradiated reactor fuels, the FPF would also facilitate a higher rate of recycle of uranium–235 to DOE's production reactors. The needed uranium, if not provided by reprocessing at the ICPP, must be derived from alternative sources, such as mining and milling, or reprocessing elsewhere. The ICPP is the only facility in the U.S. currently capable of reprocessing highly enriched uranium fuels.

Another factor that could limit the ability of the ICPP to fulfill its future mission requirement centers on design codes, standards and safety design philosophy. Because safety design philosophy has changed significantly

since the CPP–601 facility was constructed in the 1950s, the environmental, security, and radiological safety features of the CPP–601 facility would need extensive upgrading in order to support the future mission requirements. The FPF would be constructed and operated in compliance with all updated applicable codes and standards.

II. Effluent Treatment Upgrades

Another major factor that could limit the ability of the ICPP to fulfill its future mission requirements centers on the currrent liquid effluent treatment and disposal practices. Depending on the facilities in operation, the ICPP liquid waste comprises 1 to 2 million gallons/day (gal/day) of service waste, which is a combination of many liquid streams resulting from the process of fuel recovery. Until February 1984, this service waste containing trade quantities of radionuclides and heavy metals was discharged to the Snake River Plain aquifer via the ICPP injection well. The State of Idaho objected to the injection practice. The DOE and the State have agreed to the use of a percolation pond as an interim service waste disposal method. One of the streams that is combined in the service waste is the process equipment waste (PEW) evaporator condensate [referred to as low-level waste (LLW) in the FPR EA]. This LLW stream is the only contributor of radioactivity and periodically contains hazardous levels of mercury and acidity. A proposed long-tem solution for LLW management is to separate the LLW from the service waste, reduce the volume by recycling, reduce contaminants through other process improvements and treatment, and evaporate the treated effluent.

Releases to the percolation pond from the existing service waste system are within the DOE limits for discharge to uncontrolled areas, and, although drinking water regulations do not currently apply to percolation ponds, they may become applicable in the future because of increasing concerns for protection of groundwater. If these regulations become applicable, continued use of the existing ICPP facilities at anticipated increases in future fuel processing rates could result in LLW discharges that exceed the regulatory limits. Therefore, LLW treatment system modifications are prudent to ensure that the ICPP liquid waste will meet possible future, more restrictive regulations.

Proposed Action

The proposed action would provide for new uranium extraction and LLW treatment systems to operate in conjunction with FAST, NWCF, and other existing ICPP facilities. Two actions are proposed as part of the FPR project. The first is to construct and operate a new facility at the ICPP, to be called the Fuels Processing Facility (FPF), which would house most of the uranium recovery activities currently performed in CPP–601. The FPF would begin operations in 1995 and extend through approximately 2030. The second action is to install improved LLW treatment and disposal systems at the ICPP to reduce waste volumes. The purposes of the proposed FPR project are to: (a) Fulfill the ICPP mission of processing increased throughout requirements in the most economical manner; (b) reduce environmental releases, criticality risks, and radiation exposure per unit of uranium throughout; and (c) improve security and radiological safety systems.

I. Fuels Processing Facility

The proposed FPF would be constructed within the ICPP complex in a fully-developed industrial area. The building will be approximately 66 meters by 76 meters, with five levels: Three below grade and two above.

The FPF would enable the ICPP to meet future reactor uranium fuel processing requirements by increasing its processing capacity from 1030 kg U–235/yr to 3200 kg U–235/yr. In addition, the improvements would (a) reduce personnel radiation exposures to as low as reasonably achievable (ALARA) levels; (b) impart physical, rather than administrative, methods of criticality control; (c) administer better cleanup and control of effluent releases; (d) improve security and product accountability measures; and (e) upgrade structures, systems, and equipment to meet applicable standards, codes, and safety criteria to protect against destructive natural phenomena.

The FPF would perform all solvent extraction and product denitration functions currently performed in the CPP–601 facility. Specifically, the FPF will: (1) Receive dissolver product solutions from FAST; (2) process the dissolver product solutions through three cycles of solvent extraction and product denitration to produce purified solid uranium trioxide (UO_3); (3) temporarily store the solid UO_3 product; (4) recover and clean solvent for recycle or disposal; (5) receive and store process chemicals; (6) control and monitor all radioactive liquid waster streams; and (7) provide for the collection, packaging, interim storage, and handling of radioactive solid wastes.

II. Low Level Waste Treatment

The proposed LLW Treatment and Disposal System will either be located in an existing facility or a new facility for which construction will be required. The location of a new facility would most likely be southeast of building CPP–604, with some of the equipment being housed in that building.

Under the proposed action, the nonhazardous, nonradioactive portion of the service waste (1 to 2 million gal/day) will continue to be disposed of via a percolation pond. The LLW stream will be removed from the service waste stream for treatment and will either be recycled to the extraction processes, i.e. FPF, or disposed of by an evaporation process.

The treatment system, as currently conceived, will consist of an acid fractionation process, followed by evaporation and filtration with high efficiency particulate air (HEPA) filters prior to discharge. This treatment system would remove most of the heavy metals and radionuclides and reduce the acidity of the LLW system. Two parallel treatment systems would be installed to ensure process reliability.

Contaminants removed during treatment would be combined with PEW evaporator bottoms (from the existing process) and would be routed along with high-level waste (HLW) generated by the FPF process to the HLW tank farm and, subsequently, to the New Waste Calcining Facility. The aqueous HLW streams contain most of the fission products from the dissolved fuel, and are routed, as an interim processing step, to existing stainless steel tanks contained in below-grade reinforced concrete vaults. The liquid HLW would be calcined (soldified into granular solids) in the NWCF. The calcined solids would then be stored in stainless steel bins enclosed in reinforced concrete vaults at the INEL site, as is currently practiced.

Alternatives Considered

Several alternatives considered were: (1) No action; (2) complete renovation of the CPP–601 facility and processes; and (3) limited construction of new first-cycle extraction facilities to be used in conjunction with upgraded downstream systems. The four LLW system alternatives considered consisted of: (1) No action, which examined the possibility of continued use of the existing U–235 extraction process in tandem with the existing liquid LLW treatment and disposal system; (2) evaluation of the existing LLW system in conjunction with the proposed FPF;

(3) implementation of the proposed LLW system with the exception that all of the treated liquids would be disposed of in the percolation pond; and (4) implementation of the proposed LLW system with the treated liquid waste to be disposed of in a solar pond.

Environmental Considerations

The potential environmental effects were evaluated in the EA for the proposed actions and alternatives. The EA analyzed the effects from the proposed new facilities as well as the cumulative effects resulting from operations of the proposed new facilities and all other ICPP facilities. No significant environmental impacts associated with the proposed FPR project are anticipated. The proposed finding of no significant impact for the proposed action is based on the following factors, which are supported by the information and analyses in the EA.

I. Relative Comparison of Environmental Impacts

The potential environmental impacts from the alternative actions were evaluated in the EA and compared to the environmental effects projected for the proposed action. In summary, FPF Alternatives 2 and 3 would satisfy the projected ICPP mission requirements, while Alternative 1 would fall short of projected demands. Since the FPF proposed action and Alternatives 2 and 3 process larger volumes of material, the estimated environmental impacts of those options are slightly greater than those for Alternative 1. However, the impacts of all actions evaluated were found to be several orders of magnitude below regulatory requirements. The proposed action would ensure the greatest safety to both workers and the public for the following reasons:

- Improved criticality control;
- Product accountability measures; and
- Structure, systems, and equipment designed to meet natural phenomena standards.

The smallest environmental impacts associated with LLW management are from the LLW proposed action and LLW Alternative 4, although alternative 4 would result in the accumulation of hazardous sludges. More importantly, the LLW proposed action completely eliminates potentially adverse effects on the aquifer, while LLW Alternatives 1, 2, and 3 would result in discharges of trace quantities of heavy metals to percolation ponds; thus, these options could result in groundwater contamination. The following sections describe the environmental consequences of the proposed action.

II. Release of Radioactivity

Potential radiological impacts were analyzed for both routine operations and abnormal events (e.g., fire and tornado). Radiological effects are estimated by projecting radiation dose commitments to ICPP workers, maximum individual members of the general public and the population living in the study area and by estimating health effects (latent cancer deaths) to exposed populations.

A. Routine Operations

The maximum individual effective does equivalent (EDE) (5.0×10^{-7} rem) for the proposed action from one year of FPF operation would be 0.002% of the annual EPA standard for the airborne pathway (0.025 rem). The maximum individual EDE from one year of operation of the proposed LLW treatment and disposal system (4.2×10^{-6} rem) and the maximum individual EDE from total ICPP airborne emissions (2.7×10^{-4} rem) are 0.02% and 1%, respectively, of the standard. The population cumulative dose from all ICPP operations (1.4 man–rem) would be indistinguishable from the effects of background radiation (43,500 man–rem).

These doses are primarily due to elevated iodine–129 and tritium releases from the FAST and NWCF facilities because of projected increased throughput rates. The maximum number of health effects estimated to occur to the exposed population from routine releases of the FPF proposed action would be 1.3×10^{-6} per year. The maximum number of health effects projected to occur due to routine releases from the LLW proposed action are 3.9×10^{-5} per year. For comparison, 3 to 10 health effects per year are estimated to occur to the exposed population due to background radiation.

One of the main objectives of the FPF project is to reduce occupational exposure during reprocessing. To achieve this objective, the FPF will increase shielding and include more remote operational capabilities. As an operational practice, all radiation worker doses will be kept as low as reasonably achievable (ALARA) through the training of radiation workers in the proper use of equipment and protective clothing, and through sufficient planning of employee's job procedures. The facility will also be designed to reduce the total worker radiation doses to below one-fifth (1 rem/yr) the DOE occupational exposure limit of 5 rem/yr, established by DOE Order 5480.1B, Chapter 11.

B. Abnormal Events

Radiological effects caused by abnormal events were also estimated for the FPF and LLW proposed actions, and it was determined that these effects would be very small and would not be detectable in the exposed population. For the FPF, the greatest number of health effects (0.10) would result from the design basis tornado, having winds in excess of 175 mph. The design basis tornado is also estimated to cause the greatest number of health effects resulting from damage to the LLW system, 1.7×10^{-6}. The event with the highest probability of occurrence (7.7×10^{-3}/yr) was a fire with HEPA filter failure, wherein, the first of three stages of HEPA filters is damaged but the separate, downstream second and third stages remain intact. The health effects caused by such an occurrence are also very small (3.0×10^{-4} for FPF and 2.0×10^{-7} for the LLW), and would not be detectable in the exposed population.

All FPF and LLW gaseous effluents will be monitored by stack monitors which will continuously measure gaseous and particulate radioactivity. HEPA filters will be monitored to ensure maintenance of filter integrity. Alarms will be provided to alert operators of off-normal conditions in the heating, ventilation and air-conditioning systems, and technical specifications/standards, Quality Assurance requirements and operating procedures will be established for administrative control.

III. Air Quality

Air quality will not be significantly affected by the proposed action. The principal sources of nonradioactive emissions (NO_x and SO_2) at the ICPP are the FPF, the NWCF, and the Coal-Fired Steam Generation Facility (CFSGF). (The CFSGF produces process steam for ICPP facilities and is the dominant current and projected source of SO_2 emissions. The CFSGF SO_2 releases are not expected to increase with increased throughput at the ICPP). Calculated increases of concentrations of NO_x and SO_2 at the site boundary are factors of 10^{1} to 10^{3} below applicable air quality standards for NO_x and SO_2, respectively.

However, operation of the FPF will result in annual net emission increases of NO_x from the ICPP due to the higher processing rate at the NWCF. Although the increases are well within the State of Idaho's regulatory requirements, the increases would be significant as defined by the State of Idaho for purposes of air permitting. Therefore, a

construction permit from the State of Idaho has been requested and an operating permit may also be required at the State's discretion. (The DOE has recently initiated a research and development program to remove NO_x from the ICPP main stack. A bench-scale technology demonstration unit will be installed in fiscal year 1988.)

IV. Water Quality

There is minimal potential for degradation of water quality at the INEL from the FPF proposed action. There are no permanent surface waters at the INEL. All surface waters entering the INEL site evaporate or infiltrate and recharge the Snake River Plain aquifer, which flows through fractured and porous basalt about 450 ft beneath the surface at the ICPP.

Waste handling systems within the FPF will process liquid wastes to minimize discharge of radioactive and toxic materials to the environment. A gamma monitoring and diversion system will prevent discharge of radioactivity in excess of release limits. The nonradioactive, nonhazardous service wastes will be monitored to ensure pollutant concentrations are below applicable release limits before being discharged to an existing percolation pond. No significant environmental impacts associated with liquid wastes are anticipated.

Increased throughput at the ICPP will require additional water which will be pumped from the Snake River Plain aquifer. Pumping will have a very limited and localized effect on annual water-level changes in the aquifer in the vicinity of the ICPP because the amount which will be pumped is a small portion of the total storage and recharge.

V. Solid Waste

Solid waste generated as a result of the FPR project will be segregated into radioactive and nonradioactive components. Nonradioactive nonhazardous solid waste will be disposed of at an existing INEL sanitary landfill. Radioactive solid waste will be disposed of according to the type of radioactive contamination. Low-level radioactive waste will be disposed of in an existing shallow-land burial site at the Radioactive Waste Management Complex (RWMC) at the INEL. Solid waste contaminated with transuranic (TRU) radionuclides will be stored at the RWMC during an interim period until shipped for offsite disposal. Radioactive hazardous (mixed) waste will be stored at the INEL mixed waste storage facility pending evaluation of treatment/disposal options. Nonradioactive hazardous wastes will be packaged in accordance with Department of Transportation (DOT) regulations (49 CFR Parts 171, 172, and 173) and shipped to a permitted hazardous waste disposal facility.

Existing facilities at the INEL are adequate for handling solid waste generated by the proposed FPR project. Standard procedures are in place at INEL for safely carrying out waste handling activities. No significant impacts to the environment are projected from the result of handling solid wastes at the INEL.

VI. Seismicity

INEL is located in Seismic Zone 2, defined by the Uniform Building Code, October 1981, as an area where destructive earthquakes may occur. However, none of the events recorded to date have caused damage to ICPP facilities. Pipelines laid in concrete-lined trenches and other FPF facilities are designed to withstand the effects of a design basis earthquake (DBE) (0.24-g horizontal acceleration). Estimated potential environmental impacts due to DBE earthquakes on the proposed facilities are minimal, and no significant impacts would occur.

VII. Cultural and Biological Resources

The FPF facilities would occupy about 0.5 hectares (1 acre) of land inside the fences of the ICPP. Because the proposed site is presently in a highly developed area, no significant impacts on natural resources of the area are anticipated. There are no significant cultural or biological resources at the FPR site. No known threatened or endangered species or critical habitat are likely to be affected by the project. No impacts to archaeological sites are anticipated as a result of FPR.

VIII. Floodplains and Wetlands

The proposed FPF location is about 0.5 miles from Big Lost River and is 11 ft above the river bed. An existing flood control system is designed to contain a flood in excess of one with an average return period of 300 years, and therefore, the proposed project would not impact the floodplain.

IX. Socioeconomic Resources

A small work force is required for construction (120 workers) and operations (19 additional people); based on the availability of a local labor pool, socioeconomic effects associated with the FPR project are expected to be insignificant.

X. Soils

Clearing of the construction site will result in minimal soil erosion. The use of existing roads for access and the site location on previously disturbed ground will limit the erosion potential. Clearing of vegetation will be minimized and, after construction activities have concluded, the site will be upgraded and revegetated where feasible. If excavated soil is found to be radioactively contaminated above background levels, that soil will be disposed according to applicable DOE orders.

Proposed Determination

Based on the information and analyses in the EA, the Department believes that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of NEPA. Thus, DOE proposes to issue a finding of no significant impact and, therefore, not require the preparation of an environmental impact statement. DOE will make a final determination following the 30-day public review period.

Issued at Washington, DC, August 25, 1987.

Mary L. Walker,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 87-19769 Filed 8-27-87; 8:45 am]

BILLING CODE 6560-50-M

Economic Regulatory Administration

[ERA Docket No. 87-42-LNG]

Application To Amend Authorization To Export Liquefied Natural Gas; Phillips 66 Natural Gas Co. and Marathon Oil Co.

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of application to amend authorization to import liquefied natural gas to Japan.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on July 29, 1987, of a joint application filed by Phillips 66 Natural Gas Company (Phillips 66) and Marathon Oil Company (Marathon) requesting the ERA to amend their existing liquefied natural gas (LNG) export authorization to permit them to charge more market responsive prices to their two Japanese customers.

The application was filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, or notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than September 28, 1987.

FOR FURTHER INFORMATION:

John Glynn, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9482

Michael T. Skinker, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: By their application, Phillips 66 and Marathon are requesting the ERA to amend their LNG export authorization granted by DOE/ERA Opinion and Order No. 49 (Opinion 49) on December 14, 1982. Specially, the applicants want the ERA to modify the requirement in ordering paragraph C of Opinion 49 that requires them to adhere to certain very specific terms in the pricing of LNG under this export authorization. The applicants state that the present pricing formula for LNG is primarily based on the volume-weighted average of the government selling prices for the top twenty crude oils imported into Japan. The applicants maintain that this forumla has not worked properly since early 1986, because various governments have been selling their oil for prices far below those published as their official selling prices.

Since the formula no longer reflected actual LNG market prices, the applicants and their two Japanese purchasers have had discussions over the past year regarding possible changes to the price provision and agreed to utilize provisional prices pending the outcome of these discussions. The result of these negotiations was the Seventeenth Amendatory Agreement dated April 16, 1987, whch sets forth market-oriented prices from March 1986 through March 1987, and obligates the applicants to make refunds to its two purchasers to the extent that the provisional prices exceeded firm settlement prices during this time period.

The applicants state that they would strongly prefer that the ERA amend Opinion 49 by replacing the old price adjustment formula with a more market sensitive pricing forumla as outlined in their application; however, if the ERA is not willing to grant its request, the applicants alternatively request the ERA to modify Opinion 49 to permit the collection of the prices set forth in the Seventeenth Amendatory Agreement.

In support of their application, the applicants state that the requested amendment would permit them to respond quickly to changes in the marketplace without the "necessity of seeking ERA approval for each market-driven refinement of the old LNG pricing forumla." The applicants maintain that ERA failure to grant their amendment request would cause their LNG prices to be above market levels and could result in the termination of the export arrangement.

This application will be reviewed pursuant to section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order No. 0204–111.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m., e.d.t., September 28, 1987.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. A request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts. If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Phillips 66 and Marathon's joint application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 21, 1987.

Constance L. Buckley,

Director, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 87–19770 Filed 8–27–87; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project Nos. 3410–005 et al.]

Hydroelectric Applications Filed With the Commission; Woods Lake Hydro Co. et al.

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Amendment of License
b. Project No.: 3410–005
c. Date Filed: January 28, 1987
d. Applicant: Woods Lake Hydro Company
e. Name of Project: Woods Lake
f. Location: On Lime Creek in Eagle County, Colorado
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r)
h. Applicant Contact: Kenneth M. Knight, 4100 East Mississippi Avenue, Suite 1313, Denver, CO 80222, (202) 376–1669
i. FERC Contact: Hector M. Perez, (202) 376–1669
j. Comment Date: September 23, 1987

k. Description of Project: The existing project has been in operation since 1937 with a rated capacity of 30 kW. The licensee proposes to upgrade and modify the project to consist of: (1) An existing 6-foot-high, 37.3-foot-long reinforced concrete overflow-type dam with a spillway crest elevation of 9,588.50 feet; (2) a reservoir having a surface area of 0.018 acre and negligible storage capacity; (3) an existing gated and screened intake structure and a sluiceway; (4) a new 15-inch-diameter, 630-foot-long PVC penstock; (5) an existing powerhouse with a new turbine-generator unit with a rated capacity of 45 kW; (6) a short 24-inch-diameter corrugated metal pipe tailrace; (7) a 2.4–kV, 1.02-mile-long transmission line; and (8) other appurtenances. The licensee estimates an average annual generation of 183,600 kWh after modifications. The project is located within the White River National Forest.

l. Purpose of Project: Project energy is used for residential consumption solely by the owners of Woods Lake.

m. This notice also consists of the following standard paragraphs: B, C, and D1.

2a. Type of Application: Transfer of License

b. Project No: 4900–003

c. Date Filed: July 20, 1987

d. Applicant: Lawrence R. Taft and Trafalgar Power, Inc.

e. Name of Project: Forestport

f. Location: On the Black River in the Towns of Forestport and Boonville, Oneida County, New York

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r)

h. Applicant Contact: Mr. Lawrence R. Taft, 10315 Caughdenoy Road, Central Square, NY 13036, (315) 668–8219

i. FERC Contact: Cheryl Phillips, (202) 376–9821

j. Comment Date: September 21, 1987

k. Description of Transfer: On March 20, 1987, a major license was issued to Lawrence R. Taft to construct, operate and maintain the Forestport Project 4900. Lawrence R. Taft intends to sell its interest in the project to Trafalgar Power, Inc., and therefore Lawrence R. Taft and Trafalgar Power, Inc request that the license be transferred to Trafalgar Power, Inc.

l. This notice also consists of the following standard paragraphs: B, C.

3a. Type of Application: Transfer of License

b. Project No: 7887–004

c. Date Filed: July 21, 1987

d. Applicant: ESI Hydropower Company, Inc. and Minnewawa Hydro Company, Inc.

e. Name of Project: Minnewawa Project

f. Location: on the Minnewawa Brook in Cheshire County, New Hampshire

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. Applicant Contact: Mr. Michael R. Peisner, Curtis, Thaxter, Stevens, Broder, Micoleau, One Canal Plaza, Portland, ME 04112

i. FERC Contact: Robert Bell, (202) 376–5706

j. Comment Date: September 21, 1987

k. Description of Project: On July 14, 1986, a license was issued to ESI Hydropower Company, Inc. (licensee), to construct, operate, and maintain the Minnewawa Project No. 7887. The licensee intends to transfer the license to Minnewawa Hydro Company, Inc. (Transferee) which will purchase, build, and operate the project.

l. This notice also consists of the following standard paragraph: B and C.

4a. Type of Application: Preliminary Permit

b. Project No.: P–10445–000

c. Date Filed: July 17, 1987

d. Applicant: City of Utica, New York

e. Name of Project: Utica Water Line

f. Location: Hinckley-Utica Water Transmission System in Oneida County, New York

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r)

h. Applicant Contact: Mr. Russell S. LoGalbo, City of Utica, One Kennedy Plaza, Utica, NY 13503, (315) 792–0301

i. FERC Contact: Cheryl Phillips, (202) 376–9821

j. Comment Date: September 21, 1987

k. Competing Application: Project No. 10340. Date Filed: March 6, 1987.

l. Description of Project: The proposed project would consist of: (1) An existing intake structure; (2) two existing adjacent water transmission pipes, 36 inches in diameter of ductile iron pipe and 24 inches in diameter of cast iron pipe; (3) a proposed 30-foot-wide and 36-foot-long powerhouse to contain one turbine/generator with an installed capacity of 490 kW; (4) a proposed water line bypass system; (5) a proposed switchyard; (6) a new three phase 13.2–kV transmission line; and (7) appurtenant facilities. The existing facilities are owned by the City of Utica and the New York State Department of Transportation. The estimated average annual energy produced by the project would be 3,490 MWh operating under a net hydraulic head of 186 feet. The applicant estimates that the cost of work to be performed under the preliminary permit would be $39,000.

m. Purpose of Project: Project power will be sold to the Niagara Mohawk Power Corporation.

n. This notice also consists of the following standard paragraphs: A8, B, C, and D2.

5a. Type of Application: Surrender of License

b. Project No.: 4800–008

c. Date Filed: July 7, 1987

d. Applicant: City of Bountiful, Utah

e. Name of Project: Moon Lake Hydro Project

f. Location: On Lake Fork River in Duchesne County, Utah

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r)

h. Applicant Contact: William J. Madden, Jr., McNeill Watkins II, Bishop, Cook, Purcell & Reynolds, 1200 Seventeenth Street, NW., Washington, DC 20036

i. FERC Contact: Jesse W. Short, (202) 376–9818

j. Comment Date: September 25, 1987

k. Description of the proposed surrender: The licensee requests the surrender of its license for Project No. 4800 stating that under present circumstances it cannot invest the necessary capital. Construction at the project has not begun. The project would have utilized the existing Bureau of Reclamation's Moon Lake Dam and Reservoir and would have consisted of: (1) Two steel penstocks, one 48-inches in diameter and 7,500 feet long (no. 1), and the other 24-inches in diameter and 300 feet long (no. 2)—both utilizing the outlet works near the left dam abutment, with no. 1 leading to: (2) a lower powerhouse containing a turbine-generator unit having a rated capacity of 4,250 kW, and with no. 2 leading to; (3) and upper powerhouse containing a turbine-generator unit having a rated capacity of 475 kW; (4) two tailraces; (5) 12.5–kV transmission lines and an interconnection to a 69–kV transmission system; and (6) appurtenant facilities. The total capacity of the two powerplants would have been 4,725 kW.

l. This notice also consists of the following standard paragraphs: B, C, and D2.

6a. Type of Application: Exemption (5MW or Less)

b. Project No.: 10428–000

c. Date Filed: June 8, 1987

d. Applicant: Kevin T. and Pamela G. Duncan

e. Name of Project: Ebey Hill Hydroelectric Project

f. Location: On an unnamed tributary to the North Fork Stillaguamish River near the city Arlington, in Snohomish County, Washington.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 as amended.
h. Applicant Contact: Kevin T. and Pamela G. Duncan, 7019 Lake Ballinger Way, Edmonds, WA 98020, (206) 778–8783
i. FERC Contact: Thomas A. Dean, (202) 376–9275
j. Comment Date: September 21, 1987
k. Description of Project: The proposed project would consist of: (1) An earth-fill and concrete dam approximately 9 feet high and 338 feet long; (2) a 4.2-acre reservoir having a storage capacity of 27 acre-feet with a water surface elevation of 1,523.56 feet msl; (3) a 3,331-foot-long, 6 and 8-inch diameter penstock leading to: (4) a powerplant containing a single generating unit with a capacity of 100 kW operating at 1,148 feet of hydraulic head; (5) a 300-foot-long, 10-inch diameter tailrace; and (6) a 50-foot-long, 460-volt transmission line. The applicant estimates the average annual energy production to be 613,620 kWh.
l. Purpose of Project: The applicant intends to sell the power generated from the proposed facility to Snohomish County PUD No. 1.
m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, an competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice

A competing license application must conform with 18 CFR 4.30(b) (10) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS" "NOTICE OF INTENT TO FILE COMPETING APPLICATION" "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—States, agencies established pursuant to federal law that have the authority to prepare a conserving a waterway affected by the project, federal and state agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, cultural and other relevant resources of the state in which the project is located, and affected Indian tribes are requested to provide comments and recommendations for terms and conditions pursuant to the Federal Power Act as amended by the Electric Consumers Protection Act of 1986, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. Recommended terms and conditions must be based on supporting technical data filed with the Commission along with the recommendations, in order to comply with the requirement in section 313(b) of the Federal Power Act, 16 U.S.C. 825*l*(b), that Commission findings as to facts must be supported by substantial evidence.

All other federal, state, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the statutes listed above. No other formal requests will be made. Responses should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If an agency does not respond to the Commission within the time set for filing, it will be presumed to have no comments. One copy of an agency's response must also be set to the Applicant's representatives.

D2. *Agency Comments*—Federal, State and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. It an agency does not file terms and conditions within this time period,

that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: August 24, 1987.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-19738 Filed 8-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-32-000]

Proposed Change in Rates Under Proposed Gas Adjustment Clause Provision; Colorado Interstate Gas Co.

August 24, 1987.

Take notice that Colorado Interstate Gas Company (CIG) on August 14, 1987, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective October 1, 1987.

CIG states that its proposed gas sales rates reflect an annual reduction in its jurisdictional cost of purchased gas of approximately $6.0 million below the level of purchased gas in base rates the CIG made effective, subject to refund, on July 14, 1987 in Docket No. RP87-30, which incorporates the PGA change effective June 1, 1987, in Docket No. TA87-3-32.

Copies of the filing have been served upon CIG's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 31, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-19741 Filed 8-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL87-55-000]

Filing; Holyoke Gas and Electric Department et al.

August 21, 1987.

In the matter of City of Holyoke Gas and Electric Department, City of Westfield Gas and Electric Light Department, Marblehead Municipal Light Department, Middleborough Municipal Gas and Electric Department, North Attlebore Electric Department, Peabody Municipal Light Plant, Shrewbury Electric Light Department, Templeton Municipal Light Plant, Town of Boylston Municipal Light Department, Town of Hudson Light and Power Department, Town of Littleton Municipal Light and Water Department, Town of Wakefield Municipal Light Department, and West Boylston Municipal Lighting Plant v. Boston Edison Company.

Take notice that on July 31, 1987, the City of Holyoke Gas and Electric Department, *et al.* (entities listed above) filed a petition for a declaratory order and motion for summary judgment regarding a dispute between them and Boston Edison over the interruption of certain provisions in unit power purchase contracts that are on file with this Commission as jurisdictional rate schedules.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests shall be filed on or before September 4, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-19740 Filed 8-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-86-000]

Proposed Changes in FERC Gas Tariff; KN Energy, Inc.

August 24, 1987.

Take notice that KN Energy, Inc., on August 14, 1987, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. The proposed change would increase revenues from jurisdictional sales and service by $4,656,578 based on the twelve-month period ending April 30, 1987, as adjusted for known and measurable changes.

KN Energy, Inc., states that the jurisdictional rates filed herewith are designed to enable KN Energy, Inc. to recover increases in its jurisdictional cost-of-service resulting from:

(1) Additional facilities required to maintain deliverability;

(2) Increased operating costs and higher costs of material and supplies;

(3) Increased revenues needed to provide a rate of return of 11.33% on its utility investment;

(4) Increased costs for the transportation of KN's system supply gas by others, as priced at rates in effect as of the date of filing; and

(5) Reduced systemwide sales volumes.

KN Energy, Inc. requests that the tendered sheet by accepted for filing and be permitted to become effective September 14, 1987.

KN also has filed revised tariff provisions which would modify Rate Schedules IOR-1 and IOR-2 so as to permit selective discount authority. KN states that copies of the filing were served upon its jurisdictional customers and interested public bodies.

Any person desiring to be heard or make any protest with reference to this filing, should, on or before August 31, 1987, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 87-19742 Filed 8-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-37-000]

Change in Sales Rates Pursuant to Purchased Gas Cost Adjustment; Northwest Pipeline Corp.

August 24, 1987.

Take notice that on August 17, 1987, Northwest Pipeline Corporation ("Northwest") submitted for filing a proposed change in rates applicable to service rendered under rate schedules affected by the subject to Article 16, Purchased Gas Cost Adjustment Provisions ("PGA"), of its FERC Gas Tariff, First Revised Volume No. 1. Such change in rates is for the purpose of (1) reflecting changes in Northwest's estimated cost of purchased gas; and (2) projecting incremental surcharges to be assessed Northwest's affected direct and sales for resales customers pursuant to Order No. 49.

The current PGA adjustment, for which notice is given herein, aggregates to an increase of 1.600¢ per therm in the commodity rate for all rate schedules affected by and subject to the PGA. There is no change in the demand rate. The annual jurisdictional change in Northwest's rates is an increase of approximately $31,685,953. The proposed rate changes have been reflected on Thirty-Sixth Revised Sheet No. 10.

Northwest also tendered for filing and acceptance Fifteenth Revised Sheet No. 10-B reflecting revised projected incremental surcharges.

Northwest requests an effective date of October 1, 1987, for all tendered tariff sheets.

A copy of this filing has been mailed to all parties of record in Docket No. RP72-154-000, to all jurisdictional customers, and to affected state regulatory commissions.

On August 18, 1987, Northwest filed a replacement page 1 of Schedule B-1, Volume No. 1 to correct a typographical error.

Any persons desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 31, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-19747 Filed 8-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP87-13-005 and RP87-69-002]

Tariff Filing; South Georgia Gas Co.

August 24, 1987.

Take notice that South Georgia Natural Gas Company (South Georgia) on August 14, 1987 tendered for filing the following tariff sheets:

Proposed Tariff Sheets To Be Effective May 1, 1987

First Revised Volume No. 1

Forty-Second Revised Sheet No. 4
Second Revised Sheet No. 5
First Revised Sheet No. 6
Second Revised Sheet No. 9
First Revised Sheet No. 12
Third Revised Sheet No. 28
Second Revised Sheet No. 29
Ninth Revised Sheet No. 30
Fourth Revised Sheet No. 43
First Revised Sheet No. 43A

First Revised Volume No. 2

Second Revised Sheet No. 130
Second Revised Sheet No. 156
Second Revised Sheet No. 182
Second Revised Sheet No. 209
Second Revised Sheet No. 235

Proposed Tariff Sheets To Be Effective July 1, 1987

First Revised Volume No. 1

Forty-Third Revised Sheet No. 4
Tenth Revised Sheet No. 30

First Revised Volume No. 2

Third Revised Sheet No. 130
Third Revised Sheet No. 156
Third Revised Sheet No. 182
Third Revised Sheet No. 209
Third Revised Sheet No. 235

On June 11, 1987 South Georgia filed a joint settlement offer in the above-captioned proceeding which, if approved, South Georgia states, will resolve all the issues in these proceedings. South Georgia states that these tariff sheets are filed in accordance with the terms of the settlement in order to permit South Georgia's customers to have the benefit of the reduced settlement rates while the settlement offer is pending before the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 31, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-19744 Filed 8-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-67-003 and RP87-15-017]

Proposed Change in FERC Gas Tariff; Trunkline Gas Co.

August 24, 1987.

Take notice that Trunkline Gas Company (Trunkline) on August 17, 1987 tendered for filing the following sheet to its FERC Gas Tariff, Original Volume No. 2:

First Substitute First Revised Sheet No. 4268

Trunkline proposes that this sheet become effective May 1, 1987.

Truckline states that such change is made to amend Rate Schedule LT-7 for the transportation of natural gas on behalf of Champlin Petroleum Company (Champlin) as authorized in the subject proceeding by Commission Order dated January 27, 1987 and to reflect the currently effective transportation rate as approved by the Commission in Docket Nos. RP87-15, *et al.*

A copy of this filing has been served on Champlin.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before August 31, 1987. Protests will be

considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-19743 Filed 8-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA87-1-11-009 and TA87-2-11-004]

Filing of Revised Tariff Sheets; United Gas Pipe Line Co.

August 24, 1987.

Take notice that on August 13, 1987, United Gas Pipe Line Company (United) tendered for filing to its Federal Energy Regulatory Commission (FERC or Commission) Gas Tariff, First Revised Volume No. 1, the following tariff sheet:

Revised Substitute Revised Seventy-Sixth Revised Sheet No. 4

United states that the Tariff Sheet is being filed pursuant to the requirements of the Commission's August 10, 1987 order in the captioned dockets.

United reports that it mailed copies of the Tariff Sheet to its jurisdictional customers, interested state commissions, and intervenors in the above-captioned dockets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § 385.214 and 385.211 of this chapter. All such motion or protests should be filed on or before August 31, 1987. Protests will be considered by the Commission in determining the appropriate actin to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-19745 Filed 8-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-11-003]

Filing of Revised Tariff Sheets; United Gas Pipe Line Co.

August 24, 1987.

Take notice that on August 17, 1987, United Gas Pipe Line Company (United) tendered for filing to its Gas Tariff, First Revised Volume No. 1, the following tariff sheet:

Substitute Revised Seventy-Sixth Revised Sheet No. 4

United States that the Tariff Sheet is being filed pursuant to the requirements of the Commission's June 30, 1987, order in Docket No. TA87-2-11-000, *et al.*

United reports that in mailed copies of the proposed Tariff Sheet to its jurisdictional customers, interested state commissions, and intervenors.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions of protests should be filed on or before August 31, 1987. Once the date is filled in, the notice is ready to go up. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-19746 Filed 8-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-820-000 et al.]

Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates; [1] Pennzoil Co. et al.

August 25, 1987.

Take notice that each of the Applicants listed herein has filed an applicationor petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 8, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI87-820-000, F, Aug. 12, 1987.	Pennzoil Company, P.O. Box 2967, Houston, Texas 77252-2967.	United Gas Pipe Line Company, Dulac Field, Terrebonne Parish, Louisiana.	(1)	
CI87-821-000, (CI67-1638), B, Aug. 13, 1987.	Texaco Inc., P.O. Box 52332 Houston, Texas 77052.	United Gas Pipe Line Company, Cypress Island Field, Lafayette and St. Martin Parishes, Louisiana.	(2)	
CI70-1079-002, D, Aug 13, 1987	Texaco Producing Inc., P.O. Box 52332, Houston, Texas 77052.	ANR Pipeline Company, Eugene Island Block 266 Field, Offshore Louisiana.	(3)	
CI73-2-003, D, Aug. 13, 1987	.....do.....	.....do.....	(3)	

[1] This notice does not provide for consolidation for hearing of the several matters covered herein

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-18630-002, D, Aug. 17, 1987.	Sun Exploration & Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	ANR Pipeline Company, Mocane-Laverne Field, Harper County, Oklahoma.	[4]	
CI64-543-000, D, Aug. 17, 1987.	.....do.....	Northern Natural Gas Company, Division of Enron Corp., S. E. Como Field, Beaver County, Oklahoma.	[5]	
CI87-783-000, B, July 22, 1987.	Winchester Production Company, 300 West Austin Street, Marshall, Texas 75670.	Northern Natural Gas Company, Division of Exxon Corp., Serio-Clayton Lease Well # 1, Canyon Field, Crockett County, Texas.	[6]	
CI79-374-001, D, Aug. 12, 1987.	Multistate Oil Properties, NV, P.O. Box 2511, Houston, Texas 77001.	Northern National Gas Company, Division of Exxon Corp., Gage S.E. Field, Ellis County, Oklahoma.	[7]	
CI87-822-000, (CI77-517-003), B, Aug. 13, 1987.	Kerr-McGee Corporation, P.O. Box 25861, Oklahoma City, Okla. 73125.	Transcontinental Gas Pipe Line Corp., High Island Area, Block A-508, South Addition, OSC-G-3245, Offshore Texas.	[8]	
CI87-824-000, (G-18131), B, Aug. 14, 1987.	George R. Brown, 4700 First City Tower Bldg., 10001 Fannin Street, Houston, Texas 77002-6708.	Transcontinental Gas Pipe Line Corp., Sorrento Field, Ascension Parish, Louisiana.	[9]	
CI67-851-000, D, Aug. 17, 1987.	Amoco Production Company, P.O. Box 3092, Houston, Texas 77253.	El Paso Natural Gas Company, Gomez Field, Pecos County, Texas.	[10]	
G-6686-005, F, Aug. 14, 1987.	Union Texas Petroleum, P.O. Box 2120, Houston, Texas 77252-2120.	El Paso Natural Gas Company, Oil rights below 3500 feet in S/2 NE/4 of Sec. 35-T25S-R37E, Lea County, New Mexico.	[11]	
CI61-310-000, D, Aug. 14, 1987.	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, Calif. 94120-7309.	Texas Gas Transmission Corporation, Calhoun Field, Lincoln Parish, Louisiana.	[12]	
CI18142-001, D, Aug. 17, 1987.	Sun Exploration & Production Co.	Transwestern Pipeline Company, Mocane-Laverne Field, Beaver County, Oklahoma.	[13]	

[1] Effective 6-1-86, Pennzoil Producing Company (predecessor-in-interst to Pennzoil Company) acquired certain assets and property rights of ARCO Oil and Gas Company, Division of Atlantic Richfield Company.

[2] Contract will expire by its own terms on 8-23-87. The acreage is non-productive and all leases committed to the contract have expired. Continuation of service is unwarranted.

[3] Effective 2-15-83, Texaco Producing Inc. assigned to Samedan Oil Corporation its interest in a portion of OCS-G-1888, Block 247, S/2, Eugene Island Area.

[4] Sun assigned its interest in Property No. 875433, Robertson 1-34 to Sugarland Oil Company.

[5] Sun assigned its interest in Property No. 875531, J. R. Robins to Prentice, Napier, and Green.

[6] Applicant requests consideration of its application to permanently abandon sales to Northern because the sales contract expired and the subject well has not produced natural gas in the last two years. Applicant also requests pregranted abandonment for period of three years for sales made under its small producer certificate to other interested purchasers.

[7] Assignment of dedicated acreage.

[8] All production from the covered properties has ceased.

[9] Brown has made no gas sales under the Gas Purchase Contract since March, 1979, all leases have been assigned or have expired for lack of production and the Gas Purchase Contract has expired by its own terms and Buyer and Seller have agreed to terminate the contract.

[10] Amoco's interest in the Butz Gas Unit Well No. 1 is dedicated to El Paso Natural Gas Company and authorized in Docket No. CI67-851. In 1985 El Paso's line blew up and as a result no gas has been delivered to El Paso since May, 1985. Amoco desires abandonment authorization for the Butz Gas Unit Well No. 1 so that deliveries can commence to another purchaser. Amoco wil temporarily dispose of its share of gas production under its Limited-Term Abandonment Certificate in Docket No CI86-19-004.

[11] Union Texas requests that its certificate and FERC Gas Rate Schedule No. 28 to be amended to authorize Union Texas to sell and deliver gas to El Paso from acreage which was assigned to Union Texas on February 1, 1987, by Amoco Production Company and previously sold to El Paso under Amoco's FERC Gas Rate Schedule No. 168.

[12] Applicant is filing to include an additional point of delivery.

[13] Sun assigned its interest in Property No. 831414, Ethyl Fry Unit Well #1 to Prentice, Napier and Green.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 87-19806 Filed 8-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS84-109-001, et al.]

Applications for Small Producer Certificates; [1] Plains Resources Inc., et al.

August 25, 1987.

In the matter of Plains Resources Inc., PRI Producing Inc., Hiawatha Oil Company, Inc., PRI Property Management, Inc. and PRI Royalty Holdings Inc. (Plains Resources Inc., PRI Producing Inc. and Hiawatha Oil Company, Inc.), et al.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Commission's Regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make a protest with reference to said applications should on or before September 8, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

Docket No.	Date filed	Applicant
CS84-109-001	[1] 8-14-87	Plains Resources Inc., PRI Producing Inc., Hiawatha Oil Company, Inc., PRI Property Management, Inc., and PRI Royalty Holdings Inc. (Plains Resources Inc., PRI Producing Inc. and Hiawatha Oil Company, Inc.) 1601 N.W. Expressway, Oklahoma City, Oklahoma 73118
CS86-30-000	[2] 7-31-87	Total Minatome Corporation (Minatome Corporation), Suite 400, One Allen Center, Houston, Texas 77002
CS87-89-000	8-3-87	Byars Oil & Gas, Inc., 95 Olde Main Plaza, St. Albans, West Virginia 25177
CS87-90-000	8-3-87	Midstates Pipeline Company, 5000 N.W. Expressway, Oklahoma City, Oklahoma 73132
CS87-91-000	8-10-87	M M Resources, Inc., P.O. Box 384, Enid, Oklahoma 73702
CS87-92-000	8-10-87	Desana Development Corporation, 310 W. Texas, Suite 600, Midland, Texas 79701

[1] By letter dated August 4, 1987, received August 14, 1987, Applicant requests to add PRI Property Management, Inc., and PRI Royalty Holdings Inc. as co-holders of the small producer certificate in Docket No. CS84-109. In addition Applicant states that on April 22, 1987, Houston Oil Fields Company, small producer certificate holder in Docket No. CS79-470-001, was merged into Applicant, and the small producer certificate in Docket No. CS79-470-001 is no longer necessary.

[2] Letter dated July 27, 1987, received July 31, 1987, as supplemented by letter dated August 10, 1987, received August 14, 1987, requesting redesignation of small producer certificate.

[FR Doc. 87-19807 Filed 8-27-87; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of July 20 Through July 24, 1987

During the week of July 20 through July 24, 1987, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Nuclearfuel, 7/23/87; KFA-0104

NuclearFuel, a newsletter, filed an Appeal from a partial denial by the Director of the DOE Office of International Security Affairs of a request for information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the Office of Hearings and Appeals found that the Director failed to provide a sufficient justification for withholding the requested material under FOIA Exemption 4. Accordingly, the matter was remanded to the Director, who was instructed to make a specific determination as to whether the material is confidential or privileged commercial or financial information withholdable under Exemption 4.

Steptoe & Johnson, 7/24/87, KFA-0103

Steptoe & Johnson, a law firm, filed an Appeal from a denial by the Director of the Management Systems Division, Office of Management and Information Systems of the Economic Regulatory Administration of the Department of Energy (DOE) of a Request for Information which the firm submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that a portion of the documents at issue contained commercially sensitive confidential information and therefore were properly withheld under Exemption 4 of the FOIA. However, a portion of the information was found to be releasable under the FOIA. Therefore, the Appeal was granted in part and denied in all other respects. Important issues considered in the Decision and Order were the adequacy of the determination below and the effect of age on the commercial sensitivity of data.

Motion for Discovery

Cities Service Oil and Gas Corp., 7/24/87; KRD-0025

Cities Service Oil and Gas Corporation (Cities) filed a Motion for Discovery in connection with an evidentiary hearing that will be held in an enforcement proceeding pending before the Office of Hearings and Appeals. In considering the discovery motion, the DOE determined that a limited amount of discovery was warranted in order for Cities to adequately prepare for the evidentiary hearing. Accordingly, Cities' Motion for Discovery was granted in part.

Refund Applications

Alter Barge Lines, Inc., Alter Trucking & Terminal Corp., 7/21/87; RF271-51, RF270-462

Alter Barge Line, Inc. (ABL), a Rail and Water Transporter (RWT), filed an Application for Refund from the RWT Escrow. ABL's affiliate, Alter Trucking and Terminal Corporation (ATT) filed a separate Application for Refund from the Surface Transporters (ST) Escrow. The Office of Hearings and Appeals determined that the waivers in the two applications rendered them mutually exclusive, and thus that only one of the applictions could be considered. ABL's claim was the larger of the two. Consequently, OHA considered the application filed by ABL, and dismissed the one filed by ATT.

In considering ABL's application, OHA determined that ABL had established itself as a member of the RWT class, and had substantiated the volume of U.S. petroleum products it claimed to have purchased during the audit period. Accordingly, OHA granted ABL a refund based on the firm's consumption of 50,765,936 gallons of petroleum products.

American Trading Transportation Company, Inc., et al., 7/24/87; RF271-88 et al.

The Department of Energy (DOE) issued a Decision and Order approving applications submitted by six water transporters for refunds from the Rail and Water Transporters Escrow established as a result of the Stripper Well Settlement Agreement. Three of the applicants arrived at their gallonage claims from purchase records, while the other three applicants divided their total purchases for each year by the average price per gallon for that year. The DOE will determine a per gallon refund amount and establish the amount of each applicant's refund after it completes its analysis of all Rail and Water claims.

Armellini Express Lines, Inc., 7/24/87; RF270-1132

The DOE issued a Decision approving a trucking company for a Surface Transporter refund based on its verified consumption of 16,933,858 gallons of diesel fuel. The DOE will determine a per gallon refund amount and establish the amount of the applicant's refund after it completes its analysis of all Surface Transporter claims.

Boehmer Transportation Corp., et al., 7/21/87; RF270-1255 et al.

The Department of Energy (DOE) issued a Decision and Order approving the volumes claimed in 32 Applications for Refund from the Surface Transporters Escrow established as the result of the Stripper Well Settlement Agreement. The DOE will determine a per gallon refund amount and establish the amount of each applicant's refund after it completes its analysis of all Surface Transporter claims.

Coline Gasoline Corp./Florida et al., 7/24/87; RM3-66 et al.

The DOE issued a Decision approving Motions for Modification filed by the States of Florida and New Jersey and approving in part an application for second-stage refund filed by New Jersey. In its Motion for Modification, Florida proposed to spend $43,179 of Coline Gasoline Corp. and Charter Co. funds originally earmarked for a ridesharing marketing campaign directed

towards large employers for other marketing and publicity efforts associated with ridesharing. In New Jersey's Motion for Modification, the State proposed to use its allocable shares of Belridge Oil Co. and Palo Pinto Oil and Gas second-stage monies to expand an existing ridesharing program. In its refund application, New Jersey proposed to spend 90% of its Standard Oil Co. (Indiana) monies on traffic light synchronization, 5% on seminars on traffic-related issues, and 5% on administrative expenses. The DOE found that Florida's and New Jersey's modified plans would encourage ridesharing within the States, thereby reducing injured motorists' expenditures on motor gasoline. In reviewing New Jersey's application, the DOE found that the State's proposed traffic light synchronization project would reduce motorists' consumption of motor gasoline, thereby providing indirect restitution to injured consumers of refined petroleum products. Accordingly, New Jersey was granted $474,744 ($439,578 principal plus $35,166 interest) for the program. However, the DOE did not approve New Jersey's proposal to use second-stage monies for the seminar series because the seminars did not promise immediate, tangible benefits to New Jersey consumers of refined petroleum products.

Dixie Gas, Inc., 7/22/87; RF270–1123

The DOE issued a Decision evaluating a Surface Transporter claim filed by a reseller of propane. The company did not file a claim in the Stripper Well escrow for Resellers and did not include any resale volumes in its Surface Transporter claim. The DOE approved the company's claim based on the diesel fuel consumption of its trucks.

Dorchester Gas Corporation/Ramey & Company, Kerr-McGee Corporation, 7/22/87; RF253–12, RF253–23

The DOE issued a Decision and Order granting Applications for Refund submitted by two resellers, Ramey & Company and Kerr-McGee Corporation, in connection with the Dorchester Gas Corporation special refund proceeding. Neither applicant claimed a refund exceeding the $5,000 small claims threshold for resellers. Therefore, the DOE did not require a detailed showing of injury. The refunds granted the firms total $9,419, representing $7,285 in principal and $2,134 in interest.

Good Hope Refineries/Kerr-McGee Corporation, 7/23/87; RR189–1

The DOE issued a Decision and Order concerning a Motion for Reconsideration filed by Kerr-McGee Corporation. The applicant requested that the DOE reconsider a Decision that denied Kerr-McGee a refund for purchases of petroleum products covered by a consent order with Good Hope Refineries on the grounds that the firm was a spot purchaser. *Good Hope Refineries/Kerr-McGee's Corporation*, 15 DOE ¶ 85,177 (1986). In considering Kerr-McGee's Motion, the DOE found that Kerr-McGee had not successfully rebutted the presumption that firms making spot purchases did not suffer injury. Therefore, the DOE determined that Kerr-McGee's Motion for Reconsideration be denied.

Gulf Oil Corporation/Puerto Rico Electric Power Authority, 7/22/87; RF40–769

The DOE issued a Decision and Order concerning an Application for Refund filed by the Puerto Rico Electric Power Authority (PREPA), an end-user of Gulf refined petroleum products. PREPA applied for a refund based upon the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), governing the disbursement of settlement funds received from Gulf pursuant to a 1978 consent order. In accordance with those procedures, PREPA provided documentation of its purchases of Gulf refined petroleum products during the consent order period. In addition, because PREPA is a public utility, the DOE determined that PREPA's refund is contingent upon its certification that it will pass the refund is contingent upon its certification that it will pass the refund through to its customers on a dollar-for-dollar basis. The total refund approved was $838,524, representing $661,909 in principal and $173,615 in interest.

Leaseway Purchasing Corp., 7/23/87; RF270–937

Leaseway Purchasing Corporation, a subsidiary of Leaseway Transportation Corporation, filed an Application for Refund, seeking funds from the Surface Transporters Escrow established pursuant to the Settlement Agreement in *In Re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. 378. Leaseway claimed 1,134,988,219 gallons of motor fuel consumed by its parent company and its affiliated trucking companies. The DOE examined certain documents which substantiated Leaseway's claim, and approved the firm's application.

Marathon Petroleum Company/Bell Fuels, Inc., RF250–2400, RF250–2401, RF250–2402

The DOE issued a Decision and Order concerning an Application for Refund filed by Bell Fuels, Inc. (Bell), a reseller, in connection with the Marathon Petroleum Company special refund proceeding. Bell purchased Marathon product throughout the consent order period, but attempted to demonstrate injury for only a portion of that period. The DOE found that it could not determine from the partial showing of "banked" products costs submitted by Bell whether the firm had been injured. The DOE therefore calculated Bell's refund share according to the 35% presumption level established for reseller applicants in the Marathon proceeding. Bell was granted a total refund of $37,162, representing $33,494 in principal and $3,668 in interest.

Mobil Oil Corporation, 7/21/87; RF271–214

The Department of Energy (DOE) issued a Decision and Order dismissing an application submitted by Mobil Oil Corporation (Mobil) for a refund from the Rail and Water Transporters Escrow (RWT) established as a result of the Stripper Well Settlement Agreement. The DOE found that Mobil, a refiner, had previously received a refund from the Refiners Escrow established by the Settlement Agreement. The DOE found that one of the prerequisites for an RWT refund is the waiver of payment from any of the seven other escrow accounts created by the Settlement Agreement. Thus, the DOE found that Mobil was ineligible for an RWT refund.

Senn Trucking Company, et al., 7/21/87; RF270–1799 et al.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the purchase volumes of refined petroleum products claimed by 60 trucking companies and will use those gallonages as a basis for the refunds that will ultimately be issued to these firms. The DOE stated that because the size of a surface transporter applicant's refund will depend upon the total number of gallons that are ultimately approved, the actual amounts of the 60 firms' refunds will be determined at a later date.

Timber By-Products, Inc., et al., 7/24/87; RF270–987, et al.

The DOE issued a Decision and Order concerning 45 Applications for Refund from the $10.75 million Surface Transporters Escrow fund established pursuant to the Settlement Agreement in the DOE Stripper Well Exemption Litigation. Each applicant demonstrated that it operated motor vehicles during the Settlement Period and that it was a "for hire" carrier for the purposes of this proceeding. In addition, each applicant demonstrated that it purchased a certain volume of eligible petroleum products above the 250,000 gallon minimum prescribed in the Order establishing the Surface Transporters Escrow. Accordingly, all 45 Applications were approved, and the respective volumes will be used to calculate each company's final refund. The total number of gallons approved in this Decision is 113,587,386.

TLC Lines Inc., et al., 7/21/87; RF270–1799 et al.

The DOE issued a Decision and Order in connection with its administration of the $10.75 million escrow fund established for surface transporters pursuant to the settlement agreement in the DOE stripper well exemption litigation. The DOE approved the purchase volumes of refined petroleum products claimed by 24 trucking companies and will use those gallonages as a basis for the refunds that will ultimately be issued to these firms. The DOE stated that because the size of a surface transporter applicant's refund will depend upon the total number of gallons that are ultimately approved, the actual amounts of the 24 firms' refunds will be determined at a later date.

Dismissals

The following submissions were dismissed:

Name and Case No.

Bottle Gas Service—RF208–19
Dennis Green—RF270–1610

Kane-Scott Corp.—RF225–4344 thru 4348
New York State Dept. of Transportation—RF225–5724, RF225–5725
New York State Office of Parks, Recreation & Historic Preservation—RF225–5726, RF225–5727
New York State Parks & Recreation, Allegany State Park—RF225–8895, RF225–8896
New York State Police—RF225–5480 thru 5483; RF225–5728 thru 5739
Payless Cashways, Inc.—RF225–6859
Richard Lee Brown—RF225–10570
State University of New York at Buffalo—RF225–6234
W.F. Lawless—KFA–0107

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Thomas L. Wieker,

Acting Director, Office of Hearings and Appeals.

August 21, 1987.

[FR Doc. 87–19771 Filed 8–27–87; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–51689; FRL–3253–1]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of twenty-one such PMNs and provides a summary of each.

DATES:

Close of Review Period:

P 87–1550 and 87–1551—November 4, 1987.

P 87–1552, 87–1553, 87–1554, 87–1555, 87–1556, 87–1557, 87–1559, and 87–1560—November 7, 1987.

P 87–1561, 87–1562, 87–1563, 87–1564, 87–1565, and 87–1566—November 8, 1987.

P 87–1567, 87–1568, and 87–1569—November 9, 1987.

P 87–1570 and 87–1571—November 10, 1987.

Written comments by:

P 87–1550 and 87–1551—October 5, 1987.

P 87–1552, 87–1553, 87–1554, 87–1555, 87–1556, 87–1557, 87–1559, and 87–1560—October 8, 1987

P 87–1561, 87–1562, 87–1563, 87–1564, 87–1565, and 87–1566—October 9, 1987.

P 87–1567, 87–1568, and 87–1569—October 10, 1987.

P 87–1570 and 87–1571—October 11, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS–51689]" and the specific PMN number should be sent to: Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, Room L–100, 401 M Street SW., Washington, DC 20460, (202) 554–1305.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–611, 401 M Street SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the PMNs received by EPA. The complete non-confidential PMNs are available in the Public Reading Room NE–G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 87–1550

Importer. Confidential.

Chemical. (G) Polyalkenyl polyethers (mixed).

Use/Import. (G) Contained use cross-linking agent in closed process. Import range: Confidential.

P 87–1551

Manufacturer. Confidential.

Chemical. (G) (Nitroaromatic alkyl) substituted heterocyclic, thioester.

Use/Production. (G) Site-limited chemical intermediate. Prod. range: 2,500 to 25,000 kg/yr.

P 87–1552

Manufacturer. Confidential.

Chemical. (G) Substituted triphenylmethane leuco.

Use/Production. (G) Site-limited intermediate. Prod. range: Confidential.

P 87–1553

Manufacturer. Confidential.

Chemical. (G) Substituted triphenylmethane.

Use/Production. (G) Water colorant used as minor component in industrial, commercial and consumer application. Prod. range: Confidential.

P 87–1554

Importer. Confidential.

Chemical. (G) Polyfluorinated copolymers.

Use Import. (G) Water and soil repellent for leather and textile. Import range: Confidential.

Toxicity Data. Acute oral: 4,500 mg/kg; Irritation: Skin—Non-irritant, Eye—Irritant.

P 87–1555

Importer. Confidential.

Chemical. (G) Polyfluorinated copolymers.

Use/Import. (G) Water and soil repellent for leather and textiles. Import range: Confidential.

Toxicity Data. Acute oral: 4,950 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

P 87–1556

Importer. Hodogaya Chemical (USA), Incorporated.

Chemical. (S) Methanaminium, N-[4-[amino[4-(dimethylamino)phenyl] methylene]-2,5-cyclohexadien-1-ylidene]-N-methyl-, salt with dodecyl(sulfophenoxy) benzenesulfonic acid (2:1).

Use/Import. (S) Industrial, commercial and consumer ingredient of ballpoint pen ink and colorant for toner. Import range: 1,000 to 1,500 kg/yr.

Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Eye—Irritant, Skin—Non-irritant; Ames test: Non-mutagenic.

P 87–1557

Importer. Fairmount Chemical Company, Incorporated.

Chemical. (S) 1,1,3-Tris(2-methyl-4-hydroxy-5-cyclohexyl phenyl) butane.

Use/Import. (G) Dispersive use. Import range: 1,000 to 3,000 kg/yr.

P 87–1559

Importer. Confidential.

Chemical. (G) Polymer of aliphatic diisocyanate and a diol.

Use/Import. (S) Industrial and commercial aliphatic polyisocyanate prepolymer. Import range: 14,740 to 72,320 kg/yr.

P 87–1560

Manufacturer. Air Products and Chemicals, Incorporated.

Chemical. (G) Poly (propylene carbonate).

Use/Production. (G) Industrial fugitive binder product, impact modifier. Prod. range: Confidential.

P 87–1561

Importer. Castrol Incorporated.
Chemical. (G) Poly glycol ester of dimethyl silane.
Use/Import. (S) Primary component of hydraulic fluids designed for racing car brake operations. Import range: 10,000 to 30,000 kg/yr.
Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin—Slight, Eye—Non-irritant, Skin sensitization: Non-sensitizing.

P 87–1562

Importer. Confidential.
Chemical. (G) Polyamide resin.
Use/Import. (S) Printing ink component used to disperse pigment and to provide gloss, adhesion and resistance properties when printed on paper, plastic and metal substrates. Import range: Confidential.

P 87–1563

Manufacturer. Confidential.
Chemical. (G) Mixed metal oxide compound.
Use/Production. (G) Impurity removal. Prod. range: Confidential.

P 87–1564

Manufacturer. Confidential.
Chemical. (S) (−)-Menthyl chloroformate.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 87–1565

Importer. Degussa Corporation.
Chemical. (S) 1,1-Dimethoxy-2-propen.
Use/Import. (S) Industrial organic intermediate. Import range: 10,000 kg/yr.
Toxicity Data. Acute oral: 81 mg/kg; Acute dermal: 22 mg/kg; Irritation: Skin—Irritant, Eye—Non-irritant.

P 87–1566

Importer. Degussa Corporated.
Chemical. (S) 4,4-Dimethoxybutanal.
Use/Import. (S) Industrial organic intermediate. Import range: 10,000 kg/yr.
Toxicity Data. Acute oral: 453 mg/kg; Acute dermal: 633 mg/kg; Irritation: Skin—Moderate, Eye—Severe; Ames Test: Non-mutagenic; Skin sensitization: Positive.

P 87–1567

Manufacturer. Confidential.
Chemical. (G) Polyether diamine.
Use/Production. (S) Curing agent. Prod. range: Confidential.

P 87–1568

Manufacturer. Confidential.
Chemical. (G) (Alkyl substituted bicycloalkenyl) substituted pyridine.
Use/Production. (G) Fine fragrance components; functional products fragrance component; and aroma chemical. Prod. range: Confidential.
Toxicity Data. Acute oral: 1.4 g/kg; Acute dermal: 1.3 g/kg; Irritation: Skin—Slight, Eye—Irritant; Ames test: Non-mutagenic; Skin sensitization: Mild; LC_{50} 24 hr. (Rainbow Trout): 6.1 mg/l, LC_{50} 48–96 hr. (Rainbow Trout): 4.2 mg/l, EL_{50} 24 hr. (Daphnia Magna): 1.4 mg/l, EL_{50} 48 hr. (Daphnia Magna): 0.35 mg/l.

P 87–1569

Importer. Marubeni America Corporation.
Chemical. (S) Copolymer of acrylamide, 2-hydroxy propyl methacrylate, N-methylol acrylamide methyl methacrylate, ammonium persulfate and triethanol amine.
Use/Import. (S) Industrial thermal paper coating. Import range: 400,000 to 1,000,000 kg/yr.

P 87–1570

Importer. Confidential.
Chemical. (G) Blocked aliphatic urethane.
Use/Import. (S) Textile finish. Import range: Confidential.

P 87–1571

Importer. Confidential.
Chemical. (G) Trisubstituted unsaturated aldehyde.
Use/Import. (G) Highly dispersive use. Import range: Confidential.

Dated: August 17, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 87–19656 Filed 8–27–87; 8:45 am]
BILLING CODE 6560–50–M

[OPTS–59828; FRL–3252–8]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984 (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of four such PMNs and provides the summary.

DATES:

Close of Review Period:

Y 87–214, 87–215 and 87–216—August 30, 1987.

Y 87–217—September 2, 1987.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room. E–611, 401 M Street SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room NE–GO04 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 87–214

Manufacturer. General Electric Company.
Chemical. (G) Aryl alkylarylcopolyamide resin.
Use/Production. (S) Thermoplastic resin for sheet and film. Prod. range: Confidential.

Y 87–215

Manufacturer. General Electric Company.
Chemical. (G) Aryl alkylaryl polyamide resin.
Use/Production. (G) Thermoplastic resin for sheet film. Prod. range: Confidential.

Y 87–216

Manufacturer. General Electric Company.
Chemical. (G) Aryl alkylaryl polyamide resin.
Use/Production. (G) Thermoplastic resin for sheet film. Prod. range: Confidential.

Y 87–217

Manufacturer. General Electric Company.
Chemical. (G) Alkylester functionalized colloidal silica.

Use/Production. (S) Abrasion resistance enhancing for thermoplastic resins. Prod. range: Confidential.

Dated: August 17, 1987.

Denise Devoe,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 87-19657 Filed 8-27-87; 8:45 am]

BILLING CODE 6560-50-M

Assessment of Zinc and Zinc Oxide as Potentially Toxic Air Pollutants

[AD-FRL-3253-6]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of zinc and zinc oxide assessment (Zn/ZnO) results and solicitation of information.

SUMMARY: This notice announces the results of EPA's assessment of Zn/ZnO as candidates for regulation under the Clean Air Act (CAA). The Agency has concluded that the health date for Zn/ZnO is insufficient to determine their carcinogenic, mutagenic, or teratogenic potential following inhalation exposures. Adverse respiratory effects have been associated with inhalation exposure to Zn/ZnO fumes and dusts. Similarly, exposure to total particulate matter, which may contain Zn/ZnO, has been associated with adverse respiratory effects. Primary national ambient air quality standards (NAAQS) for particles having diameters of less than or equal to 10 microns (PM_{10}) have been established to protect the general public from such adverse respiratory effects. Therefore, no regulation under the CAA directed specifically at controlling emissions of Zn/ZnO is appropriate at this time.

Given the limited opportunity for prior public review of the health and exposure information incorporated in this notice, the Agency is soliciting comment and information pertinent to the determination made today. A further notice will be published only if public comments or additional information suggest a need to revise EPA's conclusion. This finding has no effect on the regulation of Zn/ZnO as particulate matter to attain the NAAQS for particulate matter. In addition, this notice does not preclude any State or local air pollution control agency from specifically regulating emission sources of Zn/ZnO.

DATES: Written comments pertaining to this notice must be received on or before November 27, 1987.

ADDRESSES: Submit comments (duplicate copies are preferred) to: Central Docket Section (A-130), Environmental Protection Agency, Attn: Docket No. A-87-09, 401 M Street SW., Washington, DC 20460.

Availability of related information: Information on the availability of the documents "Summary Review of the Health Effects Associated with Zinc and Zinc Oxide: Health Issue Assessment," EPA 600/8-87/021F, and "Zinc/Zinc Oxide Preliminary Source Assessment," EPA 450/3-87-008, can be obtained from ORD Publications, CERI-FR, U.S. Environmental Protection Agency, 26 West St. Clair Street, Cincinnati, OH 45268 (Telephone: 513-569-7562). The above document and other information on the sources, emissions, and environmental fate of Zn/ZnO are summarized in several reports which are found in Docket No. A-87-09, located in the Central Docket Section of the U.S. Environmental Protection Agency, South Conference Center, Room 4, 401 M Street SW., Washington, DC 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Robert M. Schell, Pollutant Assessment Branch (MD-12), Strategies and Air Standards Division, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711 (Telephone: 919-541-5519 commercial; 629-5519 FTS).

SUPPLEMENTARY INFORMATION: The EPA initiated an assessment of Zn/ZnO based on the large production volume and the potential for adverse health effects associated with exposure to Zn/ZnO in ambient air. In the course of this assessment, the Agency collected relevant information currently available and today's notice provides a summary of this information on the following topics: production and uses, sources and emissions, health effects, monitored ambient air concentrations, exposure and risk estimates and existing regulations.

Production and Uses

Zinc is used extensively to galvanize iron and steel. The element also readily combines with other metals, imparting the characteristics of workability at low temperatures; corrosion resistance; and finishes for use in die-casting alloys, brass, and other common alloys. Zinc displays a vigorous reducing power, liberating hydrogen from sulfuric and hydrochloric acid. This property is the basis for the use of zinc dust or mossy zinc in many commercial organic chemical processes (EPA, 1987a).

Zinc oxide is principally used to activate the vulcanization of rubber. It also helps protect rubber by its opaqueness to ultraviolet light and its high thermal conductivity. A newer use of zinc oxide utilizes its photoconductive and electrostatic properties in office photocopying applications. One of the oldest uses of zinc oxide is in the treatment of burns, infections, and skin diseases. It is also used to give white paints good concealing power, in the manufacture of opaque and certain types of transparent glass, and in the manufacture of porcelain enamels for sheet iron and vitreous enamels for cast iron (EPA, 1987a).

Sources and Emissions

Zinc is the 24th most abundant element and represents about 0.02% of the earth's crust. Zinc blende or sphalerite (ZnS) is the most important ore, yielding about 90% of the metallic zinc produced (Merck, 1976). Natural sources of zinc (e.g., windblown soil, volcanic emissions) have been estimated to constitute about 13% of the total emissions to the atmosphere (Nriagu, 1979).

Anthropogenic Zn/ZnO are emitted to the ambient air from a variety of sources. Table 1 presents a summary of general source categories which emit Zn/ZnO and their estimated emissions (EPA, 1987b; Vandenberg, 1987). Table 1 also lists the number of facilities and maximum annual facility emissions estimates for each source category, where available. Based on the available information, primary zinc and zinc oxide smelters appear to be the largest individual sources of anthropogenic air emissions of Zn/ZnO.

TABLE 1.—SOURCES AND EMISSIONS OF ATMOSPHERIC ZINC AND ZINC OXIDE [a]

Source category	Number of facilities	Estimated emissions to the atmosphere (Mg/yr)		Highest Annual Emissions per Facility (Mg/yr)	
		Zn	ZnO	Zn	ZnO
Primary Zn/ZnO Production	5	49.9	198	25.2	139
Iron and Steel Production	319	600	2400	15.8	36.7
Metallurgy [b]	NA [c]	NA	NA	16.2	NA
Miscellaneous [d]	NA	NA	NA	0.1	0.8

[a] EPA, 1987b, Vandenberg, 1987.
[b] Includes secondary zinc/zinc oxide industry, brass and bronze production, plating, etc.
[c] Not available.
[d] Includes pigments/paints, semiconductors, business machines, glass/ceramics, detergents, etc.

Health Effects

The available health effects information summarized in the document "Summary Review of the Health Effects Associated with Zinc and Zinc Oxide: Health Issue Assessment" (EPA, 1987a), are reviewed in this section. General statements made in this notice regarding zinc usually pertain to inorganic zinc compounds. Reference is made to specific zinc compounds when only compound-specific information is available.

Zinc is an essential element necessary for the growth and development of all animals, including humans. The essential nature of zinc is based on its role as an integral part of some metalloenzymes, a cofactor in regulating the activity of zinc dependent enzymes, and as a structural and functional component of biomembranes. In addition, zinc plays an important role in the metabolism of proteins and nucleic acids, is essential for the synthesis of deoxyribonucleic acid and ribonucleic acid, and it may control metabolic processes through the formation and/or regulation of the activity of zinc-dependent enzymes. Recommended dietary allowances have been established, with a greater concern generally associated with zinc deficiencies, rather than with less often seen toxic effects associated with excessive zinc intake.

Inhaled zinc can be absorbed across the alveolocapillary membrane, depending on the particle size, solubility, and functional state of the lungs. Similarly, orally administered zinc can be absorbed across the gut mucosa. Zinc may also be absorbed across the skin.

Numerous studies indicate that the body attempts to control the zinc balance homeostatically according to need by regulating the extent of absorption of dietary zinc and the rate of fecal excretion of stable zinc. Absorbed zinc is distributed to muscle, bone, liver, kidney, hair and some endocrine glands. In humans the highest concentrations of zinc are found in the male reproductive system. Zinc is mainly excreted by the gastrointestinal tract.

Zinc oxide has been shown to cause chromosomal damage in the form of an increased frequency of hyperdiploid cells in the bone marrow of noninbred white rats at concentrations of 0.1 and 0.5 mg/m ^{3}. An increase in the frequency of structural aberrations of the chromosomes and hyperdiploid cells was seen when human lymphocytes were exposed *in vitro* to zinc acetate at concentrations of 7.0 to 20.0 μg/ml. An interpretation of this report is difficult because the category of aberrations referred to as hyperdiploid cells is not one generally used by cytogeneticists in discussing this type of study. Additionally, the frequency of structural aberrations at 20 μg/ml was slightly less than the frequency at 7 μg/ml. Zinc oxide was not mutagenic at levels of 100 to 5000 μg/plate in the *Salmonella* reversion assay.

There are no data which suggest that a zinc level over that required for normal growth and development is teratogenic. A greater risk of malformations is expected in regard to zinc deficiency. Zinc also appears to offer a degree of protection against the teratogenic effect of cadmium. There are several animal studies and one human study which suggest that the ingestion of high levels of zinc may have an adverse impact on reproduction. Three premature births and one stillbirth occurred in a small group of women ingesting 40.5 mg zinc/day during the third trimester of pregnancy. However, because of the small sample size and lack of a control group, the results from this study are difficult to interpret. No adverse effects on the outcome of pregnancies were observed in a group of seven women supplemented with 81 mg zinc/day during the third trimester of pregnancy. Also, adverse effects on the outcome of pregnancies were not reported in a group of women supplemented with 8.1 mg zinc/day in addition to dietary zinc intakes of from 9.3 to 11.3 mg/day.

A positive carcinogenic response resulting from zinc administration has been only observed following injection of zinc salts into the testes of fowl and rats. Tumors always developed near the site of injection, with some authors doubting the usefulness of the technique employed if only injection site tumors developed. The injection route of exposure is unlikely to be encountered by man, thus one could conclude that testicular tumors in fowl and rats resulting from the injection of zinc salts into the testes are of limited predictive value.

There is no evidence that the inhalation, ingestion or parenteral administration of zinc induces the formation of tumors. There is, however, a considerable amount of information which indicates that the administration of zinc is indirectly involved in tumor formation as a growth promoter or inhibitor. In some animal studies, zinc deficient diets have been found to promote the development of chemically-induced cancers, whereas zinc-adequate and zinc-supplemented diets provided a protective barier against tumor formation. In other animal studies, zinc-adequate or zinc-supplemented diets facilitated the development of chemically-induced cancers. Also, examinations of cancerous tissues in humans have shown that the zinc level deviates from that found in noncancerous tissue. The EPA's Carcinogen Assessment Group (CAG) has concluded that the overall weight-of-evidence for zinc and its inorganic salts suggests that data are not sufficient to determine its carcinogenic potential for humans. Therefore, based on EPA's Guidelines for Carcinogen Risk Assessment (EPA, 1986a), CAG has classified zinc in Group D (not

classifiable as to human carcinogenicity) (EPA, 1987a).

Adverse health effects associated with occupational exposures to airborne zinc oxide fumes and/or dust are primarily manifested by respiratory symptoms. Zinc oxide fumes, as well as fumes of many other heavy metals, have been shown to cause an acute illness called metal fume fever in workers exposed to high concentrations in confined occupational settings. This condition is typically characterized by influenza-like symptoms (e.g., headache, fever, nausea, sensations of chills or warmth, and general aches and pains) that occur within a few hours after exposure and may persist for one to two days.

While data are limited, it has been estimated that metal fume fever generally does not occur at zinc oxide levels below 15 mg/m ^{3}. Some eastern European literature report the occurrence of metal fume fever in workers repeatedly exposed to zinc oxide levels averaging as low as 5 mg/m ^{3}.

The Occupational Safety and Health Administration (OSHA) adopted an 8-hour time weighted average permissible exposure limit of 5 mg zinc oxide/m ^{3}, and the American Conference of Governmental Industrial Hygienists (ACGIH) has established an 8-hour time weighted average threshold limit value (TWA–TLV) of 5 mg/m ^{3} for zinc oxide fumes and a TWA–TLV of 10 mg/m ^{3} for zinc and zinc oxide dusts to protect against nuisance effects at high dust concentrations in the work environment (ACGIH, 986).

Monitored Ambient Concentrations

Data contained in the EPA's National Aerometric Data Bank indicate the highest monitored annual average ambient concentraiton of zinc is approximately 2.65 μg/m ^{3} (Hunt et al., 1984). Additional information in the literature show annual atmospheric zinc concentrations range from 0.03–27 ng/m ^{3} in remote locations and from 0.1 to 1.7 μg/m ^{3} in urban areas (EPA, 1987a). The highest available ambient air concentration of zinc measured for a 24-hour period was approximately 115 μg/m ^{3} located near a point source (Faoro, 1986). Ambient monitoring data specifically for zinc oxide was unavailable.

Exposure Estimates

Estimates of long-term (annual average) human exposure to atmospheric Zn/ZnO emitted from specific or representative facilities for each source category identified in EPA's source assessment for Zn/ZnO (EPA, 1987b) were calculated using the Human Exposure Model (HEM). The HEM estimated concentrations to which populations living within 50 kilometers of specific sources may be exposed. For sources in the primary Zn/ZnO production source category and for several production facilities in the iron and steel source category, site-specific modeling was conducted. Model sources representative of the other facilities within the iron and steel, matallurgy and miscellaneous source categories were used, with maximum reported emission estimates used in the modeling exercise. The results of these modeling analyses indicated a maximum annual zinc concentration of 10.7 μg/m ^{3} and a maximum annual zinc oxide concentration of 3.0 μg/m ^{3} (Vandenberg, 1987).

In order to assess the potential for adverse noncancer health effects from short-term exposure to Zn/ZnO, a conservative screening modeling analysis was performed using time-adjusted annual emission rates for facilities likely to have emissions resulting in the highest short-term exposures. These facilities included primary Zn/ZnO smelters, a steel producer, two model iron and steel manufacturing furnaces and a facility from the miscellaneous source category (Doll, 1987a, 1987b). Worst case assumptions for source configuration, location, meteorological conditions and terrain effects were applied.

The highest predicted concentrations exceed the 24-hour primary PM_{10} NAAQS for particulate matter by an order of magnitude. While available monitoring data for particulate matter indicate that there are exceedances of this standard in the vicinity of some primary Zn/ZnO smelters, actual total particulate matter measured (containing zinc as well as other particulates) do not confirm ambient concentrations as high as those predicted by the screening technique (Vandenberg, 1987). In addition, fractionation of particulate matter from monitoring sites in close proximity to a source having high predicted concentrations of zinc demonstrate zinc concentrations as high as approximately 10 μg/m ^{3}, a concentration that is lower than the 24-hour PM_{10} NAAQS for a particulate matter (Pezze and Albert, 1987).

Existing Regulations

Particulate matter, which may or may not contain Zn/ZnO, has been associated with an increased incidence of adverse respiratory effects in both occupationally-exposed people and in the general public. An analysis of the health effects associated with exposure to particulate matter and the concentrations required to elicit these effects is contained in the EPA staff paper (EPA, 1986b) and the criteria document on particulate matter (EPA, 1986c). Primary NAAQS have been established under section 109 of the CAA to protect the general public from adverse respiratory effects for both short-term (24-hours) and long-term (annual) exposure periods. These levels are 150 μg/m ^{3} and 50 μg/m ^{3}, respectively, measured as PM_{10} (i.e., particles having diameters of less than or equal to 10 microns)(EPA, 1987c).

The National Institute for Occupational Safety and Health, OSHA and ACGIH have adopted regulations or have made recommendations for an occupational 8-hour time weighted average level of 5 mg/m ^{3} for zinc oxide fumes and 10 mg/m ^{3} for dusts. These levels are designed to protect the average healthy worker that may be repeatedly exposed to zinc or zinc oxide fumes or dusts, day after day, from adverse health effects (ACGIH, 1986).

The Office of Drinking Water has adopted a secondary drinking water standard of 5 mg/liter for organoleptic reasons (EPA, 1985). Zinc and some zinc compounds are currently listed as hazardous substances under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Further, under section 101(14) of CERCLA, Reportable Quatities (RQs) are established for substances specified in the CERCLA, as well as substances listed or designated under certain sections of the Clean Water Act, CAA (section 112), the Resource Conservation and Recovery Act and the Toxics Substances Control Act (EPA, 1986d). Section 103(a) of the CERCLA requires that any release to the environment (including the air) in any 24-hour period that is equal to or greater than 1000 pounds of zinc must be reported to the National Response Center (telephone 800–242–8802 or 202–426–2675 for the Washington, DC metropolitan area). The 24-hour period refers to the period within which a reportable quantity of a hazardous substance is released in order for the release to be considered reportable; it does not refer to the time available for a person to report a release. Such reporting must occur immediately.

Conclusions

The Agency concludes that the data available at this time are insufficient to indicate health concerns that require further regulation of Zn/ZnO emissions under the CAA. The target levels

identified for protection against adverse respiratory effects associated with exposure to Zn/ZnO were the primary PM_{10} NAAQS for particulate matter. These levels were selected on the basis that the respiratory effects elicited by particulate matter containing or not containing Zn/ZnO are equivalent. Available data on the ambient particle size distribution of zinc indicate that the mass median diameter is 1.13 μm (Milford and Davidson, 1985). Therefore, the PM_{10} levels identified to protect public health are appropriate for protecting against adverse effects associated with exposure to Zn/ZnO.

Protective levels were not identified for metal fume fever. Available information indicates that metal fume fever is an acute occupational hazard confined to the immediate work place. It is associated with exposure to fumes or fine dusts of many heavy metals (e.g., zinc, copper, manganese) which are generated during certain work practices (e.g., welding or cutting metals, galvanizing iron). Metal fume fever is a transitory acute effect and appears to be more a function of the physical form(s) of a metal rather than a specific metal. As noted above, the most appropriate benchmark for this decision on Zn/ZnO was judged to be the PM_{10} NAAQS for particulate matter.

Given the findings presented here, the long-term (annual) Zn/ZnO concentrations measured or estimated to be present in the ambient air are below the health effects levels associated with exposure to Zn/ZnO. In contrast, the concentrations predicted from the short-term modeling exercise indicate a potential cause for concern, since these concentrations exceed the 24-hour primary PM_{10} NAAQS for particulate matter. Criteria air pollution control programs have been established, or will be revised if needed, to control particulate matter emissions in order to attain the NAAQS for particulate matter in all areas. Zinc and zinc oxide, as particulate matter, are controlled under these efforts. Therefore, Federal regulatory activity specifically directed at regulating Zn/ZnO under the CAA is not warranted at this time. The EPA's decision not to separately regulate Zn/ZnO under the CAA has no effect on the regulation of particulate matter, which may include Zn/ZnO.

The EPA invites comments and submission of information pertinent to the determination made today. A further notice will be published if public comments or other additional information suggest a need to reevaluate today's findings and revise EPA's present conclusions.

Date: July 31, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

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EPA (U.S. Environmental Protection Agency) (1986a). Guidelines for Carcinogen Risk Assessment. September 24, 1986. 51 FR 33992.

EPA (U.S. Environmental Protection Agency) (1986b). Review of the National Ambient Air Quality Standards for Particulate Matter: Updated assessment of Scientific and Technical Information (OAQPS Staff Paper), Office of Air Quality Planning and Standards, Research Triangle Park, NC. EPA 450/5–86–012.

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EPA (U.S. Environmental Protection Agency) (1987b). Zinc/Zinc Oxide Preliminary Source Assessment. Emission Standards and Engineering Division, Office of Air Quality Planning and Standards, Research Triangle Park, NC. May 1987. EPA 450/3–87–008.

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[FR Doc. 87–19773 Filed 8–27–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59246A FRL# 3254–1]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME–87–20. The test marketing conditions are described below.

FOR FURTHER INFORMATION CONTACT: Robert Wright, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street SW., Washington, DC 20460, (202–382–7800).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test

marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME–87–20. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–87–20. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced and the date of manufacture.

2. The applicant must maintain records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T87–20

Date of Receipt: July 10, 1987.

Notice of Receipt: July 31, 1987 (52 FR 28601).

Applicant: Confidential.

Chemical: (G) Polyalkylsiloxane resin with alkoxy and hydroxy groups.

Use: (G) Industrial applications.

Production of Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: Nine months from commencement of manufacture.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore the test market substance will not present any unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: August 20, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87–19774 Filed 8–27–87; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3253–7]

Environmental Impact Statements; Availability

Responsible Agency

Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075, EPA.

Availability of Environmental Impact Statements Filed August 17, 1987 Through August 21, 1987

EIS No. 870285, Final, COE, NY, Shinnecock Inlet Navigation Project, Erosion Control and Water Quality Improvement, Suffolk County, Due: September 28, 1987, Contact: Karen Gustina (212) 264–4662.

EIS No. 870286, Draft, COE, NY, Cattagarus Creek Watershed Flood Control Plan, Wyoming, Erie and Cattagarus Counties, Due: October 15, 1987, Contact: Tim Daly (716) 876–5454.

EIS No. 870287, Draft, FHW, NC, NC–90 Replacement, NC–90 at Taylorsville to I–40 at Stateville, Alexander and Tredell Counties, Due: October 13, 1987, Contact: Ken Bellamy (919) 856–4346.

EIS No. 870288, Final, AFS, AZ, Coconino National Forest, Land and Resource Management Plan, Coconino, Gila and Yavapai Counties, Due: September 28, 1987, Contact: Neal Paulson (602) 527–7400.

EIS No. 870289, Final, AFS, CO, East Fork Ski Area Development, Special Use Permit, Four Season Resort, Valley of the East Fork of the San Juan River, San Juan National Forest Due: September 28, 1987, Contact: Sam Scanga (303) 264–2268.

EIS No. 870290, Draft, AFS, CA, OR, Siskiyou National Forest, Land and Resource Management Plan, Due: November 27, 1987, Contact: Ronald McCormick (503) 479–5301.

EIS No. 870291, Draft, BLM, AK, Utility Corridor Planning Area, Resource Management Plan and Central Arctic Management Wilderness Study Area Recommendations, Due: October 12, 1987, Contact: David Ruppert (907) 356–5130.

EIS No. 870292, Final, BLM, AZ, Upper Sonoran Wilderness Study Areas, Wilderness Designation or Nondesignation, Recommendations, Due: September 28, 1987, Contact: Bill Carter (602) 863–4464.

EIS No. 870293, Final, BLM, NV, Lahontan Resource Area, Wilderness Study Area, Wilderness Designation or Nondesignation, Recommendations, Churchill County, Due: September 28, 1987, Contact: James Elliott (702) 882–1631.

EIS No. 870294, Draft, NOA, PAC, CA, Cordell Bank National Marine Sanctuary, Designation and Management Plan, Pacific Continental Shelf, Due: October 12, 1987, Contact: Phil Williams (202) 673–5126.

EIS No. 870295, FSuppl, BLM, NV, Shoshone-Eureka Resource Area, Resource Management Plan Amendment, Livestock Use and Wildlife Habitat Impacts, Due: September 28, 1987, Contact: Terry Plummer (702) 635–5181.

Amended Notices

EIS No. 870275, Adoption, Final, FHA, ME, Jonesport Harbor Navigation Improvement Project, Due: September 28, 1987, Published FR 8–14–87—Review period reestablished.

EIS No. 870284, Draft, AFS, UT, Escalante Known Geological Structure (KGS), Oil and Gas Leasing and Development, Dixie National Forest, Garfield County, Due: October 20, 1987, Contact: Calvin Bird (801) 586–2421, Published FR 08–14–87—Incorrect accession number.

Dated: August 25, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 87–19845 Filed 8–27–87; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3253–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments Prepared August 10 Through 14, 1987

Availability of EPA comments prepared August 10, 1987 through August 14, 1987 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act (CAA) and section 102(2)(c) of the National Environmental Policy Act (NEPA) as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 24, 1987 (52 FR 13749).

Draft EISs

ERP No. D–AFS–L65105–OR, Rating EO2, Siuslaw Nat'l. Forest, Land and Resource Mgmt. Plan, OR. SUMMARY

EPA objections stem from a concern that the level of timber harvesting and road building, in the preferred alternative, needs to be reduced to adequately protect fish and water quality. There is no justification for proposing to exceed historical levels of harvesting and road building given the known adverse effects associated with those levels. EPA is also requesting additional information on landslide effects; water supply cooperative agreements; and refinements to descriptions of the forest management process, standards, guidelines, and monitoring questions.

ERP No. D-COE-G36139-TX, Rating LO, El Paso Southeast Area Local Flood Control Plan, 404 Permit, TX. SUMMARY: EPA has no objections to the proposed project.

ERP No. DS-COE-H34009-IA, Rating LO, Red Rock Dam and Lake Red Rock, Operation and Maintenance, Des Moines River, Lake Red Rock Conservation Pool Evaluation, IA. SUMMARY: EPA generally concurs with the COE selection of alternate Plan 3. EPA believes that insufficient information was presented on the possibility that the proposed modifications to the recreational facilities would require cost sharing and requested that this issue be discussed in the final EIS.

ERP No. D-FAA-E51041-TN, Rating EC2, Nashville Metropolitan Airport Runway Improvements, Site Grading and Construction, TN. SUMMARY: EPA's primary concern was the uncertainty of mitigation for unavoidable noise impacts. It was requested that the final EIS provide good assurance that noise mitigation occur down to the 65Ldn level. Avoidance, minimization, mitigation, and/or greater documentation concerning the relocation of McCrory Creek and ozone and carbon monoxide issue were also requested.

Final EISs

ERP No. F-SFW-K99021-00, Southern Sea Otters Translocation Plan, Recovery Research, San Nicolas Island, CA and OR. SUMMARY: EPA made no formal comments. EPA received the final EIS and had no comments to offer on the sea otter population relocation proposal.

Dated: August 25, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 87-19846 Filed 8-27-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection: Application for Federal Deposit Insurance—Proposed Bank (OMB No. 3064-0001).

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Fishman, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429.

COMMENTS: Comments on this collection of information should be submitted on or before September 28, 1987.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-3810.

SUMMARY: The FDIC is requesting OMB to extend, for a three-year period, the expiration date of the form FDIC 6200/05 (OMB No. 3064-0001) used by a proposed state nonmember bank to apply for FDIC deposit insurance. The application form, which expires on November 30, 1987, contains information relating to the factors which the FDIC is required to consider under section 6 of the FDI Act (12 U.S.C. 1816) before acting on the application. There is no change in the method or substance of the collection. The aggregate annual burden for this collection is estimated to be 28,500 hours.

Dated: August 24, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-19762 Filed 8-27-87; 8:45 am]

BILLING CODE 6714-01-M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection: Application for Consent to Effect a Merger-Type Transaction (OMB No. 3064-0016).

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB reivew for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Fishman, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429.

COMMENTS: Comments on this collection of information should be submitted on or before September 28, 1987.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429, telephone (202) 898-3810.

SUMMARY: The FDIC is requesting OMB to extend, for a three-year period, the expiration date of the form FDIC 6200/01 (OMB No. 3064-0016) used by an insured bank to apply for consent to merge or consolidate with another bank or institution or, either directly or indirectly, acquire the assets of or assume the liability to pay any deposits made in any other institution. The application form is submitted to the FDIC if the institution resulting from the merger or consolidation is an insured state nonmember bank. The application form, which expires on November 30, 1987, contains information relating to the factors which the FDIC is required to consider under section 18(c) of the FDI Act before acting on the application. There is no change in the method or substance of the collection. The aggregate annual burden for this collection is estimated to be 13,900 hours.

Dated: August 24, 1987.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 87-19763 Filed 8-27-87; 8:45 am]
BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Trans Freight Lines, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-011132-001.

Title: North Europe-United States Pacific Voluntary Rate Agreement.

Parties:

Trans Freight Lines
Nedlloyd Lines BV

Synopsis: The proposed amendment would delete U.S. Atlantic ports of interchange from the scope of the agreement and would add inland points in the Western United States via Pacific and Gulf ports. The parties have requested a shortened review period.

Agreement No.: 207-011144.

Title: Australia-New Zealand Direct Line Service Agreement.

Parties:

Pacific Australia Direct Line
The Shipping Corporation of New Zealand Limited

Synopsis: The proposed agreement would permit the parties to operate a joint service for the carriage of containerized cargoes in the trade between ports and inland and coastal points in Australia, New Zealand and various Pacific Islands; and ports and inland and coastal points in the North American Continent, Central America, Hawaii and the Caribbean. The joint service may also charter space to the component parties under the agreement.

By Order of the Federal Maritime Commission.
Joseph C. Polking,
Secretary.
Dated: August 25, 1987.
[FR Doc. 87-19780 Filed 8-27-87; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under OMB Review

August 24, 1987.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202-452-3822).

OMB Desk Officer—Robert Fishman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503, (202-395-7340).

Proposal To Approve Under OMB Delegated Authority The Extension, With Revision, of The Following Reports

1. Report title: Report of Intercompany Transactions for Foreign Banking Organizations and Their U.S. Bank Subsidiaries
Agency form number: FR Y-8F
OMB Docket number: 7100-0127
Frequency: Semiannual
Reporters: Foreign banking organizations
Annual reporting hours: 1170 hours
Small businesses are not affected.

General description of the report:

This report provides the Federal Reserve with information on intercompany transactions between foreign banking organizations and their U.S. bank subsidiaries. It enables the System to monitor and supervise intercompany flows of funds to ensure that the U.S. subsidiary banks are not engaging in any unsafe and unsound practices with their foreign owners. The proposed revisions include certain changes in terminology and an increase in the size criteria for interim reporting of certain large asset transfers and for separate reporting and explanation of large asset transfers that were "delinquent, nonperforming, or renegotiated."

This report is mandatory and authorized by law (12 U.S.C. 1844(5)(c)) and (12 CFR 225.5(b)). Individual respondent data are given confidential treatment (5 U.S.C. 552(b)(8)).

2. Report title: Report of Bank Holding Company Intercompany Transactions and Balances
Agency form number: FR Y-8
OMB Docket number: 7100-0126
Frequency: semiannual
Reporters: Bank holding companies
Annual reporting hours: 8,550 hours
Significant effect on small businesses is not expected.

General description of report:

This report collects data on the movement of funds between a domestic bank holding company and its subsidiaries, in order to identify broad categories of funds flows, internal transactions and balances that may have an adverse impact on the financial condition of the subsidiary bank(s). The proposed revisions will delete certain items, increase the size criteria for reporting of certain transactions, and revise terminology.

This report is required by law (12 U.S.C. 1844), and is given confidential treatment (5 U.S.C. 552(b)(8)).

Proposal To Approve Under OMB Delegated Authority The Revision of The Following Report

1. Report title: Consolidated Bank Holding Company Financial Statements
Agency form number: FR Y-9C
OMB Docket number: 7100-0128
Frequency: quarterly
Reporters: Bank holding companies
Annual reporting hours: 113,392 hours
Significant effect on small businesses is not expected.

General description of the report:

This report is a primary source of information for the Federal Reserve System's bank holding company (BHC) surveillance and is important in monitoring the financal condition of these institutions. The proposed revisions would add or delete certain items to reflect changes in the Board's capital adequacy guidelines and changes required by the 1986 Tax Reform Act, and to maintain comparability with the call report for insured banks in reflecting changes in reporting requirements for banks adopted by the Federal Financial Institutions Examination Council.

The information collection is required by law (12 U.S.C. 18445(c)).

Board of Governors of the Federal Reserve System, August 24, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-19834 Filed 8-27-87; 8:45 am]

BILLING CODE 6210-01-M

Applications To Engage de Novo in Permissible Nonbanking Activities; Affiliated Bankshares of Colorado, Inc. et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 18, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Affiliated Bankshares of Colorado, Inc.*, Denver, Colorado; to engage *de novo* in underwriting and dealing in government general obligation securities and to deal in mutual funds whose sole investments are government general obligation securities under § 225.25(b)(16) and to provide financial advice to state and local governments under § 225.25(b)(4)(v) of the Board's Regulation Y.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Central Banking System, Inc.*, San Francisco, California; to expand the geographic area served by its subsidiary, Central Banking System Credit Corporation, Walnut Creek, California, to include the United States pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 24, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-19829 Filed 8-27-87; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Financial Trust Corp., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 18, 1987.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Financial Trust Corp.*, Carlisle, Pennsylvania; to merge with Firstway Financial, Inc., Waynesboro, Pennsylvania, and thereby indirectly acquire First National Bank and Trust Company, Waynesboro, Pennsylvania.

2. *Phoenix Bancorp, Inc.*, Minersville, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Minerville Safe Deposit Bank and Trust Company, Minersville, Branch Twp., Pennsylvania.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *The Citizens and Southern Corporation*, Atlanta, Georgia, and Citizens and Southern Florida Corporation, Fort Lauderdale, Florida; to acquire 100 percent of the voting shares of Southern Bank Corp., Inc., Tallahassee, Florida, and thereby indirectly acquire The Southern Bank of Tallahassee, Tallahassee, Florida.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Citizens Financial Corporation Employee Stock Ownership Plan and Trust*, Fort Atkinson, Wisconsin; to become a bank holding company by acquiring 30 percent of the voting shares of Citizens Financial Corporation, Fort Atkinson, Wisconsin, and thereby indirectly acquire Citizens State Bank, Fort Atkinson, Wisconsin.

2. *Keeco, Inc.*, Chicago, Illinois; to acquire 7.38 percent of the voting shares of Selin Corporation, Chicago, Illinois. Comments on this application must be received by September 14, 1987.

3. *Northland Insurance Agency, Inc.*, Chicago, Illinois; to acquire 7.58 percent of the voting shares of Selin Corporation, Chicago, Illinois. Comments on this application must be received by September 14, 1987.

D. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Farmers Bancshares, Inc.*, Valmeyer, Illinois; to acquire at least 60.5 percent of the voting shares of Ramsey National Bank, Ramsey, Illinois.

2. *Mid-Mo Bancshares, Inc.*, Auxvasse, Missouri; to become a bank holding company by acquiring at least 94.78 percent of the voting shares of Security Bank of Auxvasse, Auxvasse, Missouri.

E. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First National Bank of Sauk Centre Profit Sharing Trust No. 1*, Suak Centre,

Minnesota; to become a bank holding company by acquiring 26.88 percent of the voting shares of Sauk Centre Financial Services, Inc., Sauk Centre, Minnesota, which proposes to acquire 100 percent of the voting shares of First National Bank of Sauk Centre, Sauk Centre, Minnesota.

2. *Newberry Bancorp, Inc.*, Newberry, Michigan; to become a bank holding company by acquiring at least 100 percent of the voting shares of The Newberry State Bank, Newberry, Michigan.

3. *Sauk Centre Financial Services, Inc.*, Sauk Centre, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Sauk Centre, Sauk Centre, Minnesota.

F. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Berthoud Bancorp, Inc. Employee Stock Ownership Plan*, Berthoud, Colorado; to become a bank holding company by acquiring 30 percent of the voting shares of Berthoud Bancorp, Inc., Berthoud, Colorado, and thereby indirectly acquire The Berthoud National Bank, Berthoud, Colorado. Comments on this application must be received by September 17, 1987.

G. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Myers Bancorp*, Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Myers Bancshares, Inc., Dallas, Texas, and thereby indirectly acquire Continental State Bank, Boyd, Texas; and also The First National Bank of Bridgeport, Bridgeport, Texas; and Woodhaven National Bank, Fort Worth, Texas.

H. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Family Bancorp*, Grants Pass, Oregon; to become a bank holding company by acquiring 100 percent of the voting shares of Family Bank of Commerce, Grants Pass, Oregon.

2. *Yardlong Investment Trust*, Geneva, Switzerland; Pastock Holdings Limited, Geneva, Switzerland; and International Capital Trust Limited, Geneva, Switzerland; to become bank holding companies by acquiring 85 percent of the voting shares of Western United National Bank, Los Angeles, California Comments on this application must be received by September 8, 1987.

Board of Governors of the Federal Reserve System, August 24, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-19830 Filed 8-27-87; 8:45 am]

BILLING CODE 6210-01-M

Acquisitions of Companies Engaged in Permissible Nonbanking Activities; Marshall & Ilsley Corp., et al.

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than September 11, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Marshall & Ilsley Corporation*, Milwaukee, Wisconsin; to acquire First American Investment, Inc., Wausau, Wisconsin, and thereby engage as broker or dealer retailing corporate securities over the counter; mutual funds retailer; put and call broker or dealer or option writer; underwriter or selling group participant; broker or dealer selling tax shelters or limited partnerships; broker or dealer selling oil and gas interests pursuant to § 225.25(b)(15) of the Board's Regulation Y.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Signal Bancshares, Inc.*, West St. Paul, Minnesota; to acquire the assets of Hampton Agency, Inc., Hampton, Minnesota, and thereby engage in any insurance agency activities in a place that has a population not exceeding 5,000 pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y. These activities will be conducted in The City of Hampton, Hampton Township, City of Randolph, Randolph Township, City of Miesville, Douglas Township and Marshan Township. Comments on this application must be received by September 18, 1987.

Board of Governors of the Federal Reserve System, August 24, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-19831 Filed 8-27-87; 8:45 am]

BILLING CODE 6210-01-M

Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company; Selin Corp.

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such

an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 14, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Selin Corporation*, Chicago, Illinois; to acquire 100 percent of the voting shares of Wauconda National Bank and Trust Company, Wauconda, Illinois; American National Bank, South Chicago Heights, Illinois; American National Bank & Trust Company of Waukegan, Waukegan, Illinois; First National Bank of Crystal Lake, Crystal Lake, Illinois; and Gurnee National Bank, Gurnee, Illinois.

In connection with this application, Applicant also proposes to acquire NIF Data, Inc., Chicago, Illinois, and thereby engage in data processing and data transmission services pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 24, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-19832 Filed 8-27-87; 8:45 am]

BILLING CODE 6210-01-M

Proposal to Underwrite and Deal in Certain Securities to a Limited Extent; First Interstate Bancorp

August 25, 1987.

First Interstate Bancorp, Los Angeles, California, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage *de novo* through its wholly owned subsidiary, First Interstate Capital Markets, Inc., Los Angeles, California ("FICMI"), in the activities of underwriting and dealing in, to a limited degree, commercial paper, municipal revenue bonds (including "public ownership" industrial development bonds) and 1–4 family mortgage-related securities. These securities are eligible for purchase by banks for their own account but not eligible for banks to underwrite and deal in.

FICMI currently underwrites and deals in securities that state member banks are permitted to underwrite and deal in under the Glass-Steagall Act ("eligible securities") (U.S. government securities, general obligations of states and municipalities and certain money market instruments), as permitted by § 225.25(b)(16) of Regulation Y (12 CFR 225.25(b)(16)). FICMI would conduct the proposed activities in addition to the previously approved activities on a nationwide basis.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." First Interstate has applied to conduct the proposed activities in accordance with the limitations set forth in the Board's Order approving the applications of Citicorp, J.P. Morgan & Co. Incorporated and Bankers Trust New York Corporation to underwrite and deal in the above securities. *Citicorp, J.P. Morgan & Co. Incorporated and Bankers Trust New York Corporation*, 73 Federal Reserve Bulletin 473 (1987) (*"Citicorp/Morgan/Bankers Trust"*). In its *Citicorp/Morgan/Bankers Trust* Order, the Board authorized the foregoing bank holding companies to engage through subsidiaries in underwriting and dealing in commercial paper, 1–4 family mortgage-related securities and municipal revenue bonds (including certain "public ownership" industrial development bonds) within a prudential framework of conditions and subject to 5 percent gross revenue and market limitations.

The application presents issues under section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank, such as First Interstate Bank of California, with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities. First Interstate states that it would not be "engaged principally" in such activities on the basis of the restrictions on the amount of the proposed activity relative to the total business conducted by the underwriting subsidiary and relative to the total market in such activity previously approved by the Board.

Any request for a hearing on this application must comply with § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of San Francisco.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than September 21, 1987.

Board of Governors of the Federal Reserve System, August 24, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-19833 Filed 8-27-87; 8:45 am]

BILLING CODE 6210-01-M

Applications; Correction; NBS Bancorp

This notice corrects a previous **Federal Register** notice (FR Doc. 87-18824) published at page 30958 of the issue for Tuesday, August 18, 1987.

Under the Federal Reserve Bank of New York, the entry for NBS Bancorp is revised to read as follows:

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President), 33 Liberty Street, New York, New York 10045:

1. *NBS Bancorp*, New Brunswick, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of New Brunswick Savings Bank, New Brunswick, New Jersey, a mutual savings bank which will be converted to stock form. Bank operates a subsidiary that engages in the sale of life insurance and annuities.

Comments on this application must be received by September 10, 1987.

Board of Governors of the Federal Reserve System, August 24, 1987.

William W. Wiles,

Secretary of the Board.

[FR Doc. 87-19835 Filed 8-27-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on August 21, 1987.

Social Security Administration

(Call Reports Clearance Officer on 301-594-5706 for copies of package)

1. Student Reporting Form—0960-0088—This form is submitted to the Social Security Administration by a student whenever a change occurs which would affect his or her entitlement to benefits as a student. Respondents: Individuals or households. Number of Respondents: 75,000; Frequency of Response: Occasionally; Estimated Annual Burden: 7,500 hours.

2. Recapitulation of State's Report of Wages Paid—0960-0042—The information collected by use of the form SSA-3962 is needed to summarize information on State wage reports for periods prior to 1982. It also serves to control and verify wage totals on forms SSA-3963 and SSA-3964 and to control deposit information on form SSA-3961. The affected public is comprised of State agencies responsible for reporting wage paid to State employees and to employees of State political subdivisions whose agencies are covered under the agreement. Respondents: State or local governments. Number of Respondents: 1508; Frequency of Response: Occasionally; Estimated Annual Burden: 301 hours.

3. Activities of Daily Living and Socialization—NEW—The information will be used to document the severity of mental disorders assessed in terms of the functional limitations which are incompatible with the ability to work. The affected public is comprised of individuals filing for disability benefits based on mental impairment. Respondents: Individuals or households. Number of Respondents: 13,090; Frequency of Response: Single-time; Estimated Annual Burden: 4,363 hours.

4. Disability Report and Vocational Report—NEW—These pilot tests forms will be used to determined whether they are effective in simplifying the claims-taking process and warrant national implementation. The affected public is comprised of individuals who file for disability benefits. Respondents: Individuals or households. Number of Respondents: 56,000; Frequency of Response: Single-time; Estimated Annual Burden: 25,000 hours.

OMB Desk Officer: Elana Norden.

Health Care Finance Administration

(Call Reports Clearance Officer on 301-594-8650 for copies of package)

1. Medicare Uniform Institutional Provider Bill—0938-0279—This form is used by all institutional providers to seek reimbursement from intermediaries for Medicare inpatient and outpatient services. Respondents: Business or other for-profit. Number of Respondents: 43,185,665; Frequency of Response: Occasionally; Estimated Annual Burden: 3,847,880 hours.

2. Organ Procurement Organization Request for Certification—NEW—This form is a facility identification form used to initiate the certification or recertification procedure to determine if the provider is in compliance with the conditions of participation. Respondents: State or local governments. Number of Respondents: 300; Frequency of Response: Annually; Estimated Annual Burden: 600 hours.

OMB Desk Officer: Allison Herron.

Family Support Administration

(Call Reports Clearance Officer on 202-245-0652 for copies of package)

1. Statistical/Financial Reporting Form—0970-0057—This information will be used to report state OCSE activities to Congress; to assist OCSE in monitoring and evaluating state OCSE programs. Respondents: State or local governments. Number of Respondents: 54; Frequency of Response: Quarterly; Estimated Annual Burden: 594 hours.

OMB Desk Officer: Elana Norden.

Public Health Service

(Call Reports Clearance Officer on 202-245-2100 for copies of package)

Centers for Disease Control

1. Regulation—42 CFR 37.204 National Coal Workers Autopsy Program—0920-0021—At the death of any miner, HHS is authorized to provide for an autopsy to be performed on such miner, with the consent of his surviving next-of-kin. Data is collected on the occupational and smoking history of the deceased miner to be correlated with pathologic and x-ray findings. Respondents: Individuals or households. Number of Respondents: 600; Frequency of Response: Occasionally; Estimated Annual Burden: 123 hours.

2. National Disease Surveillance Program—II. Disease Summaries—0920-0004—Surveillance data are essential to measure trends in disease incidence and evaluate effectiveness of prevention efforts. State and territorial health departments compile these summaries from data collected during disease investigations and from data furnished by local health departments. Respondents: State or local governments. Number of Respondents: 64; Frequency of Response: Annually; Estimated Annual Burden: 5,168 hours.

Food and Drug Administration

1. Intraocular Lens Investigational Device Exemption Application—0910-0067—The Intraocular Lens Investigational Device Exemption Application exempts devices from several provisions of the Federal Food, Drug, and Cosmetic Act. The application contains information necessary to evaluate the potential and continuing safety of the lenses during the investigational stage. Respondents: Businesses or other for-profit, Small businesses or organizations. Number of Respondents: 18; Frequency of Response: Occasionally; Estimated Annual Burden: 18,000 hours.

2. Joint FDA/NHLBI/NCI Health and Diet Survey, Cycle IV—NEW—The three sponsoring agencies have major public information programs underway in the area of relationships between diet and health, especially coronary heart disease, hypercholesterolemia, hypertension, and cancer. The survey of households provides data needed to evaluate the progress of these programs and to redefine their objectives or approaches as necessary. Respondents: Individuals or households: Number of Respondents: 4,000; Frequency of Response: One-time; Estimated Annual Burden: 1,867 hours.

3. Radioactive Drug Research Committee Report on Research Use of Radioactive Drugs; Membership Summary and Study Summary—0910-0053—Radioactive Research Committee are required to provide a report of their current membership and a summary of the studies approved by the committee both on an annual basis and whenever

specified limits on studies are exceeded. Respondents: Non-profit institutions. Number of Respondents: 130; Frequency of Response: Annually; Estimated Annual Burden: 1,280 hours.

OMB Desk Officer: Shanna Koss-McCallum.

As mentioned above, copies of the information collection clearance packages can be obtained by calling the Reports Clearance Officer, on one of the following numbers:

PHS: 202–245–2100
HCFA: 301–594–8650
SSA: 301–594–5706
FSA: 202–245–0652

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

ATTN: (name of OMB Desk Officer)

Date: August 24, 1987.

Raffie Shahrigian,

Acting Deputy Assistant Secretary, Office of Administrative and Management Services.

[FR Doc. 87–19767 Filed 8–27–87; 8:45 am]

BILLING CODE 4150-04-M

Centers for Disease Control

Breast Cancer Screening Program Evaluation Project; Program Announcement and Notice of Availability of Funds for Fiscal Year 1987

Introduction

The Centers for Disease Control (CDC), announces the availability of funds in Fiscal Year 1987 to support the Department of Health, State of Rhode Island, in the establishment of a breast cancer screening program evaluation project.

Assistance will be provided only to the State of Rhode Island Department of Health; no other applications are solicited.

Authority

This program is authorized under section 301 of the Public Health Service Act. The Catalog of Federal Domestic Assistance number is 13.283.

Background

Breast cancer is the leading cause of cancer mortality among women between the ages of 35 and 54. The American Cancer Society (ACS) estimates that one in ten women in the Untied States will develop breast cancer. At present, the etiology of breast cancer is poorly understood, although numerous studies have repeatedly documented certain risk factors. Although all women should be considered to be at "appreciable risk," there is more than sufficient evidence to demonstrate that screening for breast cancer through combined regimens of breast self examination (BSE), annual physical exam, and mammography can significantly reduce the morbidity and mortality through early detection. For women over age 50, it has been estimated that these regimens could reduce breast cancer mortality by more than 30 percent. Despite the demonstrated value of physical exams and mammography, surveys of physicians indicate that a significant proportion (59%) do not fully endorse ACS guidelines for breast cancer screening. In addition, it is estimated that only 10–15 percent of women are currently following recommended guidelines for the early detection of breast cancer through mammography.

The establishment of a successful breast cancer screening program requires the following components: An educational outreach program, the participation of primary-care physicians and radiologists, the availability of a low-cost screening mammogram and radiologic consultation, the surveillance of incidence and mortality, and an evaluation of the overall effectiveness of the project.

Availability of Funds

Approximately $80,000 will be available in Fiscal Year 1987 to fund this Grant. It is expected that the Grant will begin on or about September 15, 1987, and will be funded with an 18-month budget and project period. The funding estimate outlined above may vary and is subject to change.

Other Submissions and Review Requirements

The application is not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Program.

Reasons for Proposing the State of Rhode Island Department of Health as the Recipient of This Grant Program

It is proposed that this grant for a breast cancer screening program evaluation project be awarded to the State of Rhode Island Department of Health for the following reasons:

A. The Rhode Island Department of Health initiated this program, and with the exception of the evaluation component, it is entirely supported by the State. It is scheduled to begin late summer, 1987, and thus provides a unique and timely opportunity to evaluate the effectiveness of an intervention of this type.

B. The program is State-wide and targets a specific group of women, i.e., asymptomatic women over the age of 40 who have not had a mammogram within the previous 12 months, and who are not pregnant or breastfeeding. They hope to have the participation of more than 150,000 women during the period of the program (5 years).

C. The Rhode Island Department of Health has formally requested support from CDC for an evaluation of their breast cancer screening program. Specifically, assistance is desired in the areas of technical support and funds to support planning and evaluation.

D. This request represents a unique and timely opportunity for CDC not only to assist the State of Rhode Island in the evaluation of their breast cancer screening program, but also, to develop a model program which could be utilized in other States.

Information

Information may be obtained from Mr. Luther DeWeese, Grants Maangement Specialist, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305, telephone (404) 262–6575. Technical assistance may be obtained from Robert Smith, Ph.D., Project Officer, Program Development and Implementation Branch, Division of Chronic Disease Control, Center for Environmental Health, Centers for Disease Control MS F11, 1600 Clifton Road, Atlanta, GA 30333, Telephone (404) 454–4390.

Dated: August 21, 1987.

Glenda S. Cowart,

Acting Director, Office of Program Support Centers for Disease Control.

Date: August 21, 1987.

[FR Doc. 87–19739 Filed 8–27–87; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 75N–0184; DESI 10837]

T.C.M.–200 and –400 Tablets; Trihexamate; Drugs for Human Use; Drug Efficacy Study Implementation; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of the abbreviated new drug

applications for T.C.M.–200 and –400 Tablets and declaring the drug Trihexamate unlawful. The products contain a fixed combination of tridihexethyl chloride and meprobamate. The basis for this action is that the products lack substantial evidence of effectiveness. The products have been used to treat various gastrointestinal disorders.

EFFECTIVE DATE: September 28, 1987.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, Center for Drugs and Biologics (HFN–366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8041.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 16, 1981 (46 FR 3977), the Director of the Bureau of Drugs (now the Center for Drugs and Biologics) evaluated fixed-combination drug products containing tridihexethyl chloride and meprobamate as lacking substantial evidence of effectiveness for their labeled indications. The Director also proposed to withdraw approval of the new drug applications and conditionally approved abbreviated new drug applications for these products and offered an opportunity for a hearing on the proposal.

In response, hearing requests were submitted for the following products but were subsequently withdrawn: T.C.M.–200 Tablets containing 25 milligrams (mg) of tridihexethyl chloride and 200 mg of meprobamate; ANDA 86–791; Zenith Laboratories, Inc., 140 LeGrand Ave., Northvale, NJ 07647.

T.C.M.–400 Tablets containing 25 mg of tridihexethyl chloride and 400 mg of meprobamate; ANDA 86–792; Zenith Laboratories, Inc.

Trihexamate containing 25 mg of tridihexethyl chloride and 200 or 400 mg of meprobamate; no NDA; Cord Laboratories, Inc., 2555 West Midway Blvd. Broomfield, CO 80020.

The Director of the Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (section 505, 52 Stat. 1051 through 1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of ANDA's 86–791 and 86–792 and all amendments and supplements thereto is withdrawn and the drug product Trihexamate is declared unlawful effective September 28, 1987. Shipment in interstate commerce of T.M.C.–200 and –400 Tablets and Trihexamate will then be unlawful.

Dated: August 24, 1987.

Gerald F. Meyer

Acting Deputy Director, Center for Drugs and Biologics.

[FR Doc. 87–19749 Filed 8–27–87; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–07–4332–09; FES 87–35]

Availability of Final Environmental Impact Statement for Lahontan Wilderness, NV

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability of final Environmental Impact Statement (EIS) on the Wilderness Recommendations for the Lahontan Resource Area, Carson City District, Nevada.

SUMMARY: This EIS assesses the environmental consequences of managing four Wilderness Study Areas (WSAs) as wilderness or nonwilderness. The alternatives analyzed included: (1) A No Wilderness/No Action alternative for each WSA, (2) an All Wilderness alternative for each WSA, and (3) at least one Partial Wilderness alternative for each WSA.

The names of the WSAs analyzed in the EIS, their total acreage, and the proposed action for each are as follows:

WSA	Acres suitable	Acres nonsuitable
Clan Alpine Mountains WSA	68,458	127,670
Stillwater Range WSA	0	94,607
Desatoya Mountains WSA	[1] 43,053	8,260
Job Peak WSA	0	90,209

[1] Includes 51 acres of BLM lands outside the original WSA boundary.

The Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of the Interior to the President and from the President to the Congress. The final decision on wilderness designation rests with Congress. In any case, no final decision on these proposals can be made by the Secretary during the 30 days following the filing of this EIS. This complies with the Council on Environmental Quality Regulations, 40 CFR 1506.l0B(2).

SUPPLEMENTARY INFORMATION: A limited number of individual copies of the EIS may be obtained from the Area Manager, Lahontan Resource Area, 1535 Hot Springs Road, Suite 300, Carson City, NV 89701, or call (702) 882–1631. Copies are also available for inspection at the following locations:

Department of the Interior, Bureau of Land Management, 18th & C Street, NW., Washington, DC 20240

Bureau of Land Management, Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, NV 89520

Bureau of Land Management, Carson City District, 1535 Hot Springs Rd., Ste. 300, Carson City, NV 89701.

FOR FURTHER INFORMATION CONTACT: Terry F. Knight, EIS Team Leader, or the Carson City District, 1535 Hot Springs Road, Suit 300, Carson City, NV 89701.

Dated: August 17, 1987.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 87–19415 Filed 8–27–87; 8:45 am]

BILLING CODE 4310–HC–M

[AZ–020–4332–09; FES 87–36]

Availability of Final Environmental Impact Statement; Upper Sonoran Final Wilderness Studies

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of the Upper Sonoran Final Wilderness environmental impact statement.

SUMMARY: The Final Upper Sonoran Wilderness Environmental Impact Statement assesses the environmental consequences of managing 17 wilderness study areas as wilderness or non-wilderness. The alternatives assessed include: (1) An "All Wilderness Alternative" for each wilderness study area; (2) a "No Wilderness Alternative" for each wilderness study area; (3) "Partial Wilderness Alternative" for nine wilderness study areas.

The names of the wilderness study areas, their total acreage, and the acreage recommended suitable and nonsuitable under the Proposed Action are as follows:

WSA	Total acres	Acres recommended	
		Suitable	Nonsuitable
Wabayuma Peak	38,940	38,940	0
Planet	12,765	0	12,765
Aubrey Peak	16,550	16,550	0
Black Mesa	18,575	0	18,575
Rawhide Mountains	58,850	40,025	18,825
Arrastra Mountain	123,930	109,523	14,407
Lower Burro Creek	22,300	21,660	640
Upper Burro Creek	27,390	0	27,390
Buckskin Mountains	43,798	0	43,798
Harcuvar Mountains	74,778	25,287	49,491
Hassayampa River Canyon	21,900	0	21,900
Harquahala Mountains	73,275	22,865	50,410
Big Horn Mountains	22,337	21,150	1,187
Hummingbird Springs	67,680	0	67,680
Saddle Mountain	5,500	0	5,500
Black Mt./Ives Peak	9,665	0	9,665
Tres Alamos	8,910	0	8,910
Total	547,143	296,000	351,143

The Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of the Interior and the President to Congress. The final decision on wilderness designation rests with Congress.

FOR FURTHER INFORMATION CONTACT: Henri R. Bisson, District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027, Telephone (602) 863–4464.

SUPPLEMENTARY INFORMATION: Copies of the environmental impact statement may be obtained from the District Manager, Phoenix District, Bureau of Land Management, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Copies are also available for inspection at the following locations:

Bureau of Land Management, Office of Public Affairs Interior Building, 18th and C Streets NW., Washington, DC 20240

Bureau of Land Management, Arizona State Office, 3707 North 7th Avenue, Phoenix, Arizona 85014

Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401

Date: August 17, 1987.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 87–19416 Filed 8–27–87; 8:45 am]

BILLING CODE 4310-32-M

[OR-030-07-4212-17; GP7-272]

Realty Action; Availability of Permits (Temporary Authorizations) for Agricultural use in Trespass on Public Land in Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union and Wallowa County, OR; Asotin and Garfield County, WA

The Bureau of Land Management is accepting temporary permit applications for unauthorized agricultural use of public land in the Vale District. Permits will be issued noncompetitively under section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) for the same or similar use of the public land in trespass. The issuance of the permit will provide an opportunity for the users of the public land and the Bureau to resolve the unauthorized use in a manner that is fair and equitable. Significant changes in use and/or long-term leases will be considered on a case-by-case basis under section 202 of the Federal Land Policy and Management Act.

The purpose of the temporary authorization program is to abate existing and prevent future unauthorized uses of public land on the Vale District in Oregon and Washington in a non-punitive and cost effective manner. In order to participate in BLM's agricultural trespass resolution efforts, a trespasser who applies for a temporary use permit must show that his/her use occurred prior to January 1, 1987 and that he/she acknowledges Federal ownership of the land. Permit applications must be submitted prior to December 31, 1987. Unauthorized uses discovered subsequent to that date may be subject to immediate eviction and reclamation requirements, in addition to damages and full cost recovery. Maps showing the public lands open to permit and an inventory of known agricultural trespasses is available at the Vale District Office and the Baker Resource Area Office.

Permit applications and additional information are available from the Vale District Office and the Baker Resource Area Office. There is no application fee. However, agricultural use of public land is subject to fair market rental, and the reimbursement of costs, in accordance with 43 CFR 2920.6.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, 100 Oregon Street, Vale, Oregon 97918, or the Baker Resource Area Manager, P.O. Box 987, Baker, Oregon 97814. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

William C. Calkins,

District Manager.

[FR Doc. 87–19837 Filed 8–27–87; 8:45 am]

BILLING CODE 4310-22-M

National Park Service

Intention to Negotiate Concession Contract; Evelyn Hill, Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Evelyn Hill, Inc., authorizing it to continue to provide food and gift facilities and services for the public at Liberty Island, Statue of Liberty National Monument for a period of fifteen (15) years from January 1, 1988, through December 31, 2003.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment and finding of no significant impact may be reviewed in the office of the Superintendent, Statue of Liberty National Monument.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1984, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, North Atlantic Region, 15 State Street, Boston, Massachusetts 02109, for information as to the requirements of the proposed contract.

Herbert S. Cables, Jr.

Regional Director, North Atlantic Region.

[FR Doc. 87–19824 Filed 8–27–87; 8:45 am]

BILLING CODE 4310-70-M

Intention to Negotiate Concession Contract; Jerman and Mangum Enterprises, Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Jerman and Mangum Enterprises, Inc. authorizing it to continue to provide saddle horse and mule rental, guide and related facilities and services for the public at the North Rim of Grand Canyon National Park, Arizona for a period of ten (10) years from January 1, 1988, through December 31, 1997.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act, and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1987, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Western Regional Office, 450 Golden Gate Avenue, San Francisco, California 94102, for information as to the requirements of the proposed contract.

Dated: July 28, 1987.

W. Lowell White,

Acting Regional Director, Western Region.

[FR Doc. 87-19825 Filed 8-27-87; 8:45 am]

BILLING CODE 4310-70-M

Intention to Negotiate Concession Contract; Verkamps, Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Verkamp's, Inc. authorizing it to continue to provide souvenir, Indian handcrafts, and related facilities and services for the public at the South Rim of Grand Canyon National Park, Arizona for a period of ten (10) years from January 1, 1988, through December 31, 1997.

This contract renewal has been determined to be categorically excluded form the procedural provisions of the National Environmental Policy Act, and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1987, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Western Regional Office, 450 Golden Gate Avenue, San Francisco, California 94102, for information as to the requirements of the proposed contract.

W. Lowell White,

Acting Regional Director, Western Region.

Date: July 28, 1987.

[FR Doc. 87-19826 Filed 8-27-87; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Amdt. No. 12 to Special Tariff Authority No. 80-1748, and Amdt. No. 5 to Special Tariff Authority No. 84-8933]

Extension of Expiration Date of Master Tariff Increases

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed procedure for incorporation of master tariff increases in basic tariffs.

SUMMARY: The Commission is requesting comments on its proposal to implement procedures that will expedite the restructuring and updating of basic rates to incorporate selective increases in Master Tariffs ICC TCFB 9500-B and ICC TEA 9000-D. Pending our evaluation of comments received in response to this proposal, we will hold in abeyance the joint application of the railroad tariff publishing agents, requesting an extension of the involved master tariffs' expiration date from September 30, 1988 to September 30, 1991.

COMMENTS: Comments are due on September 28, 1987.

ADDRESS: Please send (an original and 10 copies if possible) to: Special Tariff Authority No. 80-1748, Office of the Secretary, Case Control Branch, Room 1324, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Robert Swedien, (202) 275-6436

or

Joseph H. Dettmar, (202) 275-7245.

(TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION:

Applicants' [1] master tariffs provide selective increases for commodity rates published in basic tariffs of rate bureaus and individual rail carriers. Under the Special Tariff Authorities noted above, applicants have received permission, pursuant to 49 U.S.C. 10762(d)(2), to delay incorporating the increases contained in various master tariffs into the basic tariffs.[2] Applicants again seek an extension to September 30, 1991, of the current expiration date of September 30, 1988, for these master tariffs because assertedly they will be unable to complete the process of updating the basic rates by September 30, 1988.

The selective increases in these master tariffs are initiated by individual carriers for their single-line rates and for joint-line rates with concurring carriers,

[1] Trans-Continental Freight Bureau, Southwestern Freight Bureau, Rail Publication Services (Southern Freight Association and Traffic Executive Association—Eastern Railroads, Agents), Western Trunk Line Committee, North Pacific Coast Freight Bureau, and Pacific Southcoast Freight Bureau, Agents.

[2] 49 U.S.C. 10762(d)(2) states in relevant part:

[T]he Commission shall require that all rates of rail carriers and rail rate-making associations be incorporated in their individual tariffs by the end of the 2nd year after initial publication of the rate, or by the end of the 2nd year after a change in a rate becomes effective, whichever is later. The Commission may extend those periods if cause exists, but if it does it must send a notice of the extension and a statement of the reasons for the extension to Congress. A rate not incorporated in an individual tariff as required by the Commission is void.

The specific increases for a given commodity can vary considerably, depending upon the carrier, points, and routes involved. The applicants have encountered problems incorporating the selective increases into group and scale rates. Under these rates, a single rate may apply from and to many points, often via hundreds of routes. Group and scale rates are a legacy of the collective ratemaking era. In the prevailing ratemaking environment, rates of this kind with broad, uniform applicability have become obsolete and are inherently incompatible with individually established selective increases. As a result, the applicants have found it virtually impossible to update group and scale rates in an efficient manner.

In response to difficulties encountered in incorporating the selective increases into group and scale rates, applicants implemented a major updating and restructuring program in 1985. The program eventually will eliminate all collectively set group and scale rates, replacing them with a simplified rate publication format consisting of point-to-point rates. This system will be adaptable to electronic rate retrieval programs and other technological advances.

The current tariff restructuring program, borne entirely by the railroads, involves conversion of all "active" group and scale rates and routes to a point-to-point direct connector rate format and republication in self-contained individual rate items. Concurrently with conversion to the new format, the rates are being updated to reflect selective increases. However, applicants' program is encumbered by the fact that, before they can treat the rates as obsolete and subject to cancellation, they must engage in the exhaustive and time-consuming task of identifying the universe of active rates, *i.e.*, those actually involved in the movement of traffic. For example, one of the bureaus' difficulties is that they must await notification from individual carriers who, in turn, must review their operations and identify the "active" rates.

We endorse applicants' tariff simplification goal as one that promotes the interests of the entire transportation community. However, we are not persuaded that, as the program is presently structured, the process will be completed even by the requested extended date. Under 49 U.S.C. 10762(d)(2), Congress intended that the Commission oversee the timely incorporation of the increases into the basic rates. Accordingly, we are proposing an alternative approach for incorporating the master tariff increases that we believe will refine, simplify, and expedite applicants' restructuring and updating goals. Our intent here is to assist the bureaus in expediting the process with the resulting benefits to shippers and carriers.

In contrast to applicants' approach, our recommended program entails a cooperative effort by the railroads, shippers, and the Commission to accelerate the combined restructuring and updating agenda. Under this approach, it would be incumbent upon shippers to inform the railroads of active rates and, upon this advice, only those rates actually moving traffic would be converted.

To allow prompt identification of such rates, applicants' tariff publishing officers would issue complete lists of all tariff provisions containing group or scale rates as proposed for cancellation. The lists would be compiled and announced within 30 days of our issuance of a final decision in response to the comments received in this proceeding. They would be furnished to the Commission and all tariff subscribers, and, in addition, would be given as broad a public dissemination as possible. Publication of the list in the **Federal Register** may be possible, although alternative means of publication may be suggested in comments. Shippers would then have a period of 90 days to advise the origin carriers and the tariff publishing officers of the group and scale rates that they actually are using to move traffic. In order to permit expeditious conversion of the group and scale rates, this advice would have to be point-to-point, route specific.

With such information, the applicants would be able to determine the full extent of the conversion updating task remaining. The applicants would be required to notify the Commission on or before June 30, 1988 of the status of the conversion process. If the Commission determines on the basis of such information that the republication task cannot be completed by September 30, 1988, we would establish a new time frame for completion of the project and grant a corresponding extension of the master tariffs.

Under the proposed program, there are likely to be oversights where active group or scale rates are not directed to the attention of the carriers within the established time frames. In such instances, the railroads would be expected to use the short notice provisions of 49 CFR 1312.4(e)(1)(i)(E) to reinstate any rates that may be canceled inadvertently. If a shipment moves after a group or scale rate has been canceled, the participating carriers would be expected to apply promptly to the Commission on the special docket for authority to award reparations on the basis of the rate that would have applied had there been no cancellation. The carriers would be required to take such action only on shipments that move within 1 year of the cancellation or some other reasonable period that the parties might suggest and justify in their comments.

Because we are proposing a considerably shorter schedule for this process, and one that requires active participation by shippers, we specifically invite the comments of interested persons on this proposed approach to master tariff restructuring and updating. In addition, we encourage commenting parties to suggest alternative approaches and program features that similarly might expedite the necessary tariff republishing.

We will hold applicants' joint extension request in abeyance pending our evaluation of the comments received to the extent it seeks an extension for Master Tariffs ICC TCFB 9500–B and ICC TEA 9000–D.

Finally, the joint application offers no justification for an extension of the current expiration date in connection with other rates. Therefore, we do not intend to extend the September 30, 1988 expiration date for any other tariffs unless applicants present reasons for such an extension.

Environmental and Energy Considerations

Implementation of the proposed tariff restructuring approach will not affect significantly the quality of the human environment or conservation of energy resources.

Regulatory Flexibility Analysis

We preliminarily certify that this proposed action will not have a significant economic impact on a substantial number of small entities. The recommended alternative approach to master tariff updating and restructuring will allow for tariff simplification on an expedited agenda and ultimately will render master tariffs more simplified, useful, and readily accessible to shippers, as well as carriers. To the extent that this proposal will have any effect on the economic interests of small transportation consumers or providers, the impact is expected to be positive. However, we encourage parties to comment specifically on this matter.

Authority: 49 U.S.C. 10321 and 10762.

Decided: August 19, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87-19783 Filed 8-27-87; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 290 (Sub-Nos. 2 and 5)]

Railroad Cost Recovery Procedures; Quarterly Rail Cost Adjustment Factor; Creation of New Docket and Updated Service Tests

AGENCY: Interstate Commerce Commission.

ACTION: Notice to create a new docket and two updated service lists.

SUMMARY: The Commission is creating a new docket and two new service lists for the future: Ex Parte No. 290 (Sub-No. 5) for all parties interested in receiving the decision setting the quarterly rail cost adjustment factor (RCAF); and Ex Parte No. 290 (Sub-No. 2) for parties interested in receiving pleadings in all other matters. A request to be included in either (or both) service lists must be filed with the Commission. In the future, all pleadings and statements submitted in Ex Parte No. 290 (Sub-Nos. 2 and 5), other than the Association of American Railroads' quarterly submission of its railroad cost index, must be served on all parties indicating a desire to be on these service lists.

DATES: This decision is effective on August 27, 1987. A request to be included on either service list (or both) must be filed by September 28, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245

or

William T. Bono, (202) 275-7354.

(TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357, or assistance for the hearing impaired is available through TDD services (202) 275-1721, or by pickup from TSI in Room 2229 at Commission headquarters.

This action will not significantly affect either the quality of the human environment or energy conservation.

Decided: August 19, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee,

Secretary.

[FR Doc. 87-19785 Filed 8-27-87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31092]

Railroad Acquisition Operation; Norfolk and Western Railroad Co. and Wabash Railroad Co.; City of Columbia, MO

The City of Columbia, MO, has filed a notice of exemption to acquire and operate certain properties owned by the Wabash Railroad Company and operated under lease by the Norfolk and Western Railway Company (collectively referred to as Railway). The properties consist of: The line of railroad between milepost 124.38 at or near Centralia, MO, and milepost 145.78, at or near Columbia, MO (a distance of approximately 21.40 miles), and incidental trackage rights over Railway. Any comments must be filed with the Commission and served on Mr. Henry C. Stoltz, Assistant City Counselor, P.O. Box N, Columbia, MO 65205, telephone (314) 874-7223.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: August 10, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-19786 Filed 8-27-87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collection(s) Under Review

August 25, 1987.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The name and telephone number of the Department's Clearance Officer from whom a copy of the form and/or supporting documentation is available; (2) the office, board or division of the Department of Justice issuing the form or administering the collection; (3) the title of the form/collection; (4) the agency form number, if any; (5) how often the report must be filled out or the information is to be collected; (6) who will be asked or required to respond, as well as a brief abstract; (7) an estimate of the total number of respondents; (8) an estimate of the total public burden hours associated with the collection; (9) an indication of whether Section 3504(h) of Pub. L. 96-511 applies; and, (10) the name and telephone number of the person or office responsible for the OMB review. Comments and/or questions regarding the item(s) contained in this notice should be directed to the OMB reviewer listed at the end of each entry *AND* to the Department's Clearance Officer. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should so advise the OMB reviewer *AND* the Department's Clearance Officer of your intent as early as possible.

The Department of Justice Clearance Officer is: LARRY E. MIESSE and can be reached on (202) 633-4312.

New Collection

(1) Larry E. Miesse, (202) 633-4312
(2) Immigration and Naturalization Service, Department of Justice
(3) I-94T Arrival and Departure Record
(4) I-94T
(5) On occasion
(6) Individuals or households. The I-94 Arrival and Departure form has been modified with the I-94T to facilitate the efficient implementation and operation of the new TWOV (Transit Without Visa) procedure. The modified form incorporates the data gathering information presently gathered via wet stamp
(7) 280,000 annual responses
(8) 18,480 estimated total public burden hours (40 hours per response)
(9) Not applicable under 3504(h)
(10) Robert Fishman, (202) 395-7340.

Larry E. Miesse,

Clearance Officer.

[FR Doc. 87-19844 Filed 8-27-87; 8:45 am]

BILLING CODE 4410-10-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 2, 1987, Applied Science Laboratories, Division of Alltech Associates, Inc., 2701 Carolean Industrial Drive, P.O. Box 440, State College, Pennsylvania 16801, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Lysergic acid diethylamide (7315)	I
D-lysergic acid methylpropylamide (7328)	I
Tetrahydrocannabinols (7370)	I
Mescaline HCL (7387)	I
3, 4 Methylenenedioxyamphetaine HCL (7402)	I
3, 4 Methylenedioxymethamphetamine HCL (7406)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Cyclohexaine (PCE) HCL (7456)	I
1-phenylcyclohexylpyrrolidine HCL (7461)	I
Thiophene Analog of PCP (HCL salt) (7469)	I
Dihydromorphine (9145)	I
Phencyclidine HCL (7472)	II
1-phenylcyclohexylaine (7460)	II
1-piperidinocyclohexanecarbonitrile (PCC) (8603)	II
Codeine-6-glucuronide (9069)	II
Acetylcodeine (9105)	II
Norcodeine HCL (9115)	II
Dihydrocodeine (9120)	II
Benzoylecgonine (9187)	II
Ecgonine methyl ester (9185)	II
Ecgonine HCL (9189)	II
Methadone HCL (9251)	II
Normorphine HCL (9360)	II

Manufacturing quotas will range from less than 100 grams of each compound per year with the majority of manufacturing under 10 grams per year. These materials are produced solely to be used in the standardization of test procedures with analytical instruments.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than September 28, 1987.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: August 24, 1987.

[FR Doc. 87-19776 Filed 8-27-87; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-19,538]

Dismissal of Application for Reconsideration; A.P. Green Refractories, Philadelphia, PA

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at A.P. Green Refractories, Philadelphia, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-19,538; A.P. Green Refractories, Philadelphia, Pennsylvania (August 19, 1987).

Signed at Washington, DC, this 19th day of August 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87-19808 Filed 8-27-87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-18,739]

Determinations on Reconsideration; AT&T Technologies, Inc., AT&T Technology Systems, Reading, PA

On May 8, 1987, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of AT&T Technologies, Inc., AT&T Technology Systems, Reading, Pennsylvania. The affirmed notice regarding application for reconsideration was published in the **Federal Register** on May 15, 1987 (52 FR 18465).

Counsel for the International Brotherhood of Electrical Workers, Local 1898, claims that the Department (1) did not investigate the Regional Bell Operating Companies and (2) did not consider increased imports of telephone sets entering the U.S. market. Counsel does not agree with the Department's negative findings concerning the outsourcing of component production to offshore facilities in 1986. Counsel claims that the company in numerous instances used components from its offshore plants.

Workers at the Reading plant of AT&T Technology Systems produce components for telecommunication systems and equipment including integrated circuits, custom logic devices, microprocessors, thin film devices, metal oxide semiconductors, LED and optoelectronic devices, plasma display products and linear integrated circuits. All of these components are integrated into the production of telecommunication systems and equipment at other plants of AT&T Technologies, Inc.

Intergration of production between the Reading plant and other plants of AT&T Technologies would permit workers at the Reading plant to be certified for trade adjustment assistance only if there is a reduced demand for components originating at the facilities producing the finished article (telecommunication systems) whose workers meet the statutory criteria for certification. This condition has not been met. None of AT&T Technologies' facilities which manufacture telecommunication systems are currently certified as eligible to apply for adjustment assistance benefits.

Findings on reconsideration, show workers in the LED and Optoelectronic Devices Department at the Reading, Pennsylvania plant met all of the group criteria of section 222 of the Trade Act. A substantial amount of LED and optoelectronic device production was outsourced in 1986 to foreign facilities and returned to AT&T. Substantial worker separations occurred in the LED and Optoelectronic Devices Department in 1986. Other findings on reconsideration show that none of the plasma display production and only an insignificant amount of linear integrated circuit production from the Reading plant were outsourced to foreign facilities during the period applicable to the petition. Company imports of other telecommunication components produced at the Reading plant are negligible.

A review of the investigative files shows that workers at the Reading plant who produced components and assemblies for telephone systems and apparatus were certified eligible to apply for adjustment assistance from January 1, 1985 through May 1, 1986 under certification TA-W-16,548, as amended. Reading's telephone

component production was integrated into the production of telephone sets at the Shreveport, Louisiana plant of AT&T Information Systems whose workers were certified for trade adjustment assistance (TA–W–16,313). Beginning in the third quarter of 1985, the Shreveport plant started a phaseout of production of residential telephone equipment. By the end of 1985 all of Shreveport's residential telephone production was transferred to the Orient. Likewise, all telephone component production at Reading ceased in 1985.

Counsel's claim concerning increased imports of telephone sets is not germane to the subject petition since workers at Reading produce only components for telecommunication systems and equipment and all workers at Reading producing telephone components were certified earlier under TA–W–16,548, as amended.

Counsel's claim concerning the Department's failure to investigate the Regional Bell Operating Companies would not be applicable for workers producing components for telecommunication systems and equipment. When there are no increased imports of like or directly competitive components, certification of workers producing components has been a derivative of certification of workers producing articles incorporating the components produced by a corporation also producing the import impacted article. Under such conditions, the Department has, where it has been legally possible, expanded investigations to cover workers in facilities producing components. The Department's practice has not been to follow the reverse practice. Further, the Department did conduct a customer survey of the Regional Bell Operating Companies for telecommunication transmission equipment in connection with other investigations (AT&T Network Systems, Winston-Salem, North Carolina, TA–W–16,508 and AT&T Technology Systems, Radford, Virginia TA–W–16,509) and found virtually all of the companies surveyed do not import telecommunication transmission equipment. The one customer who imported telecommunication transmission equipment had insignificant imports compared to its total sales.

Conclusion.

After careful review of the additional facts obtained on reconsideration, it is concluded that increased imports of LED and optoelectronic devices produced at the Reading, Pennsylvania plant of AT&T Technology Systems contributed importantly to the decline in production and to the total or partial separation of workers and former workers in the LED and Optoelectronic Devices Department of the Reading, Pennsylvania plant of AT&T Technology Systems. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of the LED and Optoelectronic Devices Department of the Reading, Pennsylvania plant of AT&T Technology Systems, AT&T Technologies, Inc., who became totally or partially separated from employment on or after May 1, 1986 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

I further determine that all other workers at the Reading, Pennsylvania plant of AT&T Technology Systems, AT&T Technologies, Inc., are denied eligibility to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 17th day of August 1987

Harold A. Bratt,

Deputy Director, Office of Program Management, UIS.

[FR Doc. 87–19809 Filed 8–27–87; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–19, 617 et al.]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; CNG Producing Co. et al.

In the matter of CNG Producing Co., New Orleans, Louisiana and all other locations of the CNG Producing Company in the following states, Louisiana TA–W–19,617A, Oklahoma TA–W–19,617B, Texas TA–W–19,617C, Wyoming TA–W–19,617D, Colorado TA–W–19,617E, Nevada TA–W–19,617F, Utah TA–W–19,617G, New Mexico TA–W–19,617H, Arkansas TA–W–19,617I, Montana TA–W–19,617J, and Kansas TA–W–19,617K.

In accordance with section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 5, 1987 applicable to all workers of the CNG Producing Company, New Orleans, Louisiana.

The company furnished new information to the Department which showed additional States where worker separations occurred in 1986. Accordingly, the certification is amended to include the following states: Louisiana, Oklahoma, Texas, Wyoming, Colorado, Nevada, Utah, New Mexico, Arkansas, Montana and Kansas.

The intent of the certification is to cover all workers of CNG Producing Company headquartered in New Orleans, Louisiana who were affected by increased imports of crude oil. The amended notice applicable to TA–W–19,617 is hereby issued as follows:

All workers of CNG Producing Company, New Orleans, Louisiana and all other workers of the CNG Producing Company operating in the states of Louisiana, Oklahoma, Texas, Wyoming, Colorado, Nevada, Utah, New Mexico, Arkansas, Montana and Kansas who became totally or partially separated from employment on or after April 22, 1986 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 17th day of August, 1987.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 87–19810 Filed 8–27–87; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–19,522]

Dismissal of Application for Reconsideration; General Electric Co., Consumer Electronics Business Operations, Portsmouth, VA

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at General Electric Company, Consumer Electronics Business Operations, Portsmouth, Virginia. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–19,522; General Electric Company, Consumer Electronics Business Operations, Portsmouth, Virginia (August 4, 1987).

Signed at Washington, DC, this 19th day of August 1987.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87–19811 Filed 8–27–87; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[Docket No. M–87–186–C]

Petition for Modification of Application of Mandatory Safety Standard; AMAX Coal Co.

AMAX Coal Company, 251 North Illinois Street, P.O. Box 967, Indianapolis, Indiana 46206–0967 has

filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Harco Mine (I.D. No. 11–02484) located in Saline County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that portable trailing cables on shuttle cars not exceed 500 feet in length.

2. As an alternate method, petitioner proposes to use 700 feet of No. 6 3/C G–GC portable trailing cables on shuttle cars. In support of this request, petitioner states that—

(a) The proposed addition of 200 feet of cable on shuttle cars will reduce the number of power moves thereby decreasing the potential for injury to miners due to strains caused by lifting and pulling;

(b) The cable impedance in the case of AC current increases with the length of the cable. If too much resistance is introduced into the system under short circuit conditions, the impedance may be so great that the amount of current flow would not be sufficient to trip the circuit breaker for the cable. The result would be a heat buildup on the cable which could result in an electrical fire hazard; and

(c) Electrical calculations establish that the current flow at the circuit breaker under worse case conditions would provide an adequate amount of current flow sufficient to trip the circuit breaker on the shuttle car machine.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. these comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 28, 1987. Copies of the petition are available for inspection at that address.

Date: August 21, 1987.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

[FR Doc. 87–19812 Filed 8–27–87; 8:45 am]

BILLING CODE 4510–43–M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or government agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Alabama:	
AL87–3 (Jan 2, 1987)	p. 6.
New Jersey:	
NJ87–3 (Jan. 2, 1987)	p. 637.
West Virginia:	
WV87–3 (Jan. 2, 1987)	pp. 1223–1224.

Volume II

Arkansas:	
AR87–4 (Jan. 2, 1987)	p. 12.
Illinois:	
IL87–1 (Jan. 2, 1987)	pp. 68–71, pp. 74–75, 77, pp.79–94.
IL87–2 (Jan. 2, 1987)	pp. 96–102.
IL87–3 (Jan. 2, 1987)	pp. 114–115.
IL87–4 (Jan. 2, 1987)	pp. 120–121.
IL87–5 (Jan. 2, 1987)	pp. 126–127.
IL87–6 (Jan. 2, 1987)	pp. 132–133.
IL87–7 (Jan. 2, 1987)	pp. 136–138.
IL87–8 (Jan. 2, 1987)	pp. 142–146.
IL87–9 (Jan. 2, 1987)	pp. 148–149.
IL87–11 (Jan. 2, 1987)	pp. 158–159.
IL87–12 (Jan. 2, 1987)	pp. 164–166.

IL87-13 (Jan. 2, 1987) ..... pp. 176-178.
IL87-14 (Jan. 2, 1987) ..... pp. 186-188.
IL87-15 (Jan. 2, 1987) ..... pp. 196-198.
IL87-16 (Jan. 2, 1987) ..... pp. 206-209.
IL87-17 (Jan. 2, 1987) ..... pp. 216-222.
Indiana:
IN87-1 (Jan. 2, 1987)..... pp. 236-240.
Kansas:
KS87-9 (Jan. 2, 1987)..... p. 364.
Oklahoma:
OK87-19 (Jan. 2, 1987)..... p. 9121.
Volume III
Montana:
MT87-1 (Jan. 2, 1987)..... p. 168, pp. 179-180.
MT87-2 (Jan. 2, 1987)..... pp. 198-199.
Utah:
UT87-1 (Jan. 2, 1987)..... pp. 306-314.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed At Washington, DC this 21st day of August 1987.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 87-19600 Filed 8-27-87; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

[Docket No. M-87-30-M]

Petition for Modification of Application of Mandatory Safety Standard; Andesite Rock Co.

Andesite Rock Company, 3955 Youngfield Svc. Road, Golden, Colorado 80401 has filed a petition to modify the application of 30 CFR 56.3130 (wall, bank, and slope stability) to its Lyons Quarry (I.D. No. 05-01437) located in Boulder County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petition concerns the requirement that mining methods be used that will maintain wall, bank, and slope stability in places where persons work or travel in performing their assigned tasks. when benching is necessary, the width and height shall be based on the type of equipment used for cleaning of benches or for scaling of walls, banks, and slopes.

2. Petitioner states that the physical layout of the quarry is such that benching is prohibitive in terms of production.

3. As an alternate method, petitioner proposes to install a high-density polyethylene fence in a 100-foot wide "curtain" on that area of the pit wall where miners are working. In support of this request, petitioner states that—

(a) The curtain would effectively trap any loose material from the face of from above the wall crest, preventing injury to miners working on the bench below; and

(b) The curtain can be moved along the pit wall as work below progresses.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before Spetember 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: August 21, 1987.

[FR Doc. 87-19813 Filed 8-27-87; 8:45 am]

BILLING CODE 4510-43-W

[Docket No. M-87-27-M]

Petition for Modification of Application of Mandatory Safety Standard; General Chemical Corp.

General Chemical Corporation, Green River Soda Ash Operations, P.O. Box 551, Green River, Wyoming 82935-0551 has filed a petition to modify the application of 30 CFR 57.21065(c) (examination for hazardous conditions and testing for methane) to its General Chemical Mine (I.D. No. 48-00155) located in Sweetwater County, Wyoming. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petition concerns the requirement that the mine be examined weekly by a qualified person for hazardous conditions, for compliance with health and safety standards, and to test for methane and carbon monoxide.

2. As an alternative method, petitioner proposes to establish seal check points at every split of air that sweeps sealed areas of the mine.

3. In support of this request, petitioner states that—(a) There are 250 seals and they are all built in the return airways and are not against fresh air used for ventilation of active workings;

(b) Approximately 140 of these seals are inaccessible due to ground conditions and would pose a severe hazard to personnel charged with the responsibility of inspection of these seals;

(c) The product mined, trona, is a noncombustible material and whether there was in-gassing or out-gassing of the seals there would be no danger of spontaneous combustion;

(d) If a leak were to develop in a seal, the atmosphere behind the seal would leak directly into the return air and no contamination of the fresh air environment would occur; and

(e) By establishing seal check points downwind of the seals, if a problem were to develop, it would be detected and a systematic approach could be taken to alleviate the problem. Action levels of .5% of methane and 10 ppm of carbon monoxide would warrant investigation of the areas and seals upwind of the seal checkpoint.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 28, 1987. Copies of the

petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: August 19, 1987.

[FR Doc. 87-19814 Filed 8-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-181-C]

Petition for Modification of Application of Mandatory Safety Standard; Interstate Mining Corp.

Interstate Mining Corporation, Rt. 1, Box 265-A, Danville, West Virginia 25053 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 2 Mine (I.D. No. 46-07248) located in Boone County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety to the miners affected because the area actively being mined has undulating floors, which causes the canopies to rub the roof and occasionally damage roof bolts. The canopies also limit the equipment operator's visibility.

3. The canopy legs have become bent due to the canopy contacting the roof, and in some cases have been knocked loose to the extent that the canopy has hit the operator.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: August 21, 1987.

[FR Doc. 87-19815 Filed 8-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-17-M]

Petition for Modification of Application of Mandatory Safety Standard; Homestake Mining Co.

Homestake Mining Company, P.O. Box 875, Lead, South Dakota 57754 has filed a petition to modify the application of 30 CFR 57.19021 (minimum rope strength) to its Homestake Gold Mine (I.D. No. 39-00055) located in Lawrence County, South Dakota. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that at installation the nominal strength (manufacturer's published catalog strength) of wire ropes used for hoisting meet the minimum rope strength values.

2. As an alternate method, petitioner proposes to use Phillystran (an Aramid fiber) ropes in lieu of wire ropes. In support of this request, petitioner states that—

(a) The extreme light weight of the Aramid fiber ropes allows an increase in the payload of each skipload of ore, which allows fewer trips up the shaft to hoist the same number of tons and thereby increases available shifts for shaft maintenance; and

(b) The minimum rope strength will be five times the static load. This is an increase in the safety factor. The Aramid fiber ropes will not be used as guide ropes, friction drum ropes or on cage hoists.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: August 21, 1987.

[FR Doc. 87-19817 Filed 8-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-19-M]

Petition for Modification of Application of Mandatory Safety Standard; Homestake Mining Co.

Homestake Mining Company, P.O. Box 875, Lead, South Dakota 57754 has filed a petition to modify the application of 30 CFR 57.19023 (examinations) to its Homestake Gold Mine (I.D. No. 39-00055) located in Lawrence County, South Dakota. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petition concerns the procedural requirements for wire rope examinations.

2. In a separate petition for modification, (M-87-17-M), petitioner proposes to use Phillystran (an Aramid fiber) in lieu of wire ropes.

3. As an alternate method, petitioner proposes that—

a) At least once every fourteen calendar days, each Phillystran rope in service will be visually examined along its entire active length for visible structural damage. In addition, visual examination for wear will be made at stress points, including the area near attachments, where the rope rests on sheaves, where the rope leaves the drum, at drum crossovers, and at change-of-layer regions. When any visible condition exists which may result in a reduction of rope strength, the affected portion of the rope will be examined on a daily basis;

b) Before any person is hoisted with a newly installed Phillystran rope or any rope that has not been examined in the previous fourteen calendar days, the Phillystran rope will be examined in accordance with paragraph (a) of this section; and

c) At the completion of each examination, the person making the examination will certify, by signature and date, that the examination has been made. If any condition listed in paragraph (a) exists, the person conducting the examination will make a record of the condition and the date. Certifications and records of examinations will be retained for one year.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All

comments must be postmarked or received in that office on or before September 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: August 21, 1987.

[FR Doc. 87-19818 Filed 8-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-20-M]

Petition for Modification of Application of Mandatory Safety Standard; Homestake Mining Co.

Homestake Mining Company, P.O. Box 875, Lead, South Dakota 57754 has filed a petition to modify the application of 30 CFR 57.19024 (retirement criteria) to its Homestake Gold Mine (I.D. No. 39-00055) located in Lawrence County, South Dakota. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petition concerns the requirement that unless damage or deterioration is removed by cutoff, wire ropes shall be removed when certain specific conditions occur.

2. In a separate petition (M-87-17-M), petitioner proposes to use Phillystran fiber ropes in lieu of wire ropes. These ropes are covered by a heavy polyester braided jacket. The jacket is to be used as the indicator of potential inner rope abnormalities.

3. As an alternate method, petitioner proposes that—

(a) Rope wear sufficient to cause possible rope failure should be easily identified during routine visual inspections. Exposure of rope core, although caused by severe localized wear, may not necessitate rope retirement. Closer examination of rope will be required. The factory will be consulted for proper jacket repair procedures; and

(b) Immediate rope section retirement will take place if any of the following occurs:

(1) Bulging, or rippling which will indicate a broken strand;

(2) Area of drastic rope diameter reductions caused by separation of rope core; and

(3) Cuts of any core fiber.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: August 21, 1987.

[FR Doc. 87-19819 Filed 8-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-21-M]

Petition for Modification of Application of Mandatory Safety Standard; Homestake Mining Co.

Homestake Mining Company, P.O. Box 875, Lead, South Dakota 57754 has filed a petition to modify the application of 30 CFR 57.19025 (load end attachments) to its Homestake Gold Mine (I.D. No. 39-00055) located in Lawrence County, South Dakota. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petition concerns the requirement that wire ropes be attached to the load by a method that develops at least 80 percent of the nominal strength of the rope, and that except for terminations where use of other materials is a design feature, zinc (spelter) shall be used for socketing wire ropes.

2. In a separate petition for modification (M-87-17-M), petitioner proposes to use Phillystran (an Aramid fiber) ropes in lieu of wire ropes.

3. As an alternate method, petitioner proposes to attach the Phillystran rope to the load by resin socketing which develops at least 80 percent of the minimum rated breaking strength. The terminations will be employed using United Ropeworks (U.S.A.) Inc. authorized supplies and procedures only.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: August 21, 1987.

[FR Doc. 87-19820 Filed 8-27-87; 8:45am]

BILLING CODE 4510-43-M

[Docket No. M-87-22-M]

Petition for Modification of Application of Mandatory Safety Standard; Homestake Mining Co.

Homestake Mining Company, P.O. Box 875, Lead, South Dakota 57754 has filed a petition to modify the application of 30 CFR 57.19026 (drum end attachment) to its Homestake Gold Mine (I.D. No. 39-00055) located in Lawrence County, South Dakota. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petition concerns the procedural requirements for drum end attachments.

2. In a separate petition for modification (M-87-17-M), petitioner proposes to use Phillystran (an Aramid fiber) in lieu of wire ropes.

3. As an alternate method, petitioner proposes that Phillystran ropes will be attached:

(a) Securely by four clips after making one full turn around the drum spoke;

(b) Securely by four clips after making one full turn around the shaft, if the drum is fixed to the shaft.

4. In addition, a minimum of five full turns of Phillystran rope will be on the drum when the rope is extended to its maximum working length.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: August 21, 1987.

[FR Doc. 87-19821 Filed 8-27-87; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-87-23-M]

Petition for Modification of Application of Mandatory Safety Standard; Homestake Mining Co.

Homestake Mining Company, P.O. Box 875, Lead, South Dakota 57754 has filed a petition to modify the application of 30 CFR 57.19027 (end attachment retermination) to its Homestake Gold Mine (I.D. No. 39–00055) located in Lawrence County, South Dakota. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petition concerns the requirement that damaged or deteriorated wire rope be removed by cutoff and the rope reterminated where there is more than one broken wire at an attachment; improper installation of an attachment; slippage at an attachment; or evidence of deterioration from corrosion at an attachment.

2. In a separate petition for modification (M–87–17–M), petitioner proposes to use Phillystran (an Aramid fiber) in lieu of wire ropes.

3. As an alternate method, petitioner proposes that rope retermination will be performed if any signs of rope fatigue or wear in close proximity to end termination are detected, including but not limited to the following:

(a) Jacket wear, tear or cutting;

(b) Rope bulges or rippling;

(c) Rope axis out of line with termination axis;

(d) Cracked, chipped or broken hardware; or

(e) Cracked, chipped or broken resin socket plug.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: August 21, 1986.

[FR Doc. 87–19822 Filed 8–27–87; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M-87-24-M]

Petition for Modification of Application of Mandatory Safety Standard; Homestake Mining Co.

Homestake Mining Company, P.O. Box 875, Lead, South Dakota 57754 has filed a petition to modify the application of 30 CFR 57.19028 (end attachment replacement) to its Homestake Gold Mine (I.D. No. 39–00055) located in Lawrence County, South Dakota. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows: 1. The petition concerns the requirement that wire rope attachments be replaced when cracked, deformed, or excessively worn.

2. In a separate petition for modification (M–87–17–M), petitioner proposes to use Phillystran (an Aramid fiber) in lieu of wire ropes.

3. As an alternate method, petitioner proposes that damaged or deteriorated Phillystran rope will be removed by cutoff and the rope reterminated where there is any broken strand at an attachment; improper installation of end attachment; slippage at end attachment; or evidence of deterioration from corrosion of attaching hardware.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before September 28, 1987. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Acting Associate Assistant Secretary for Mine Safety and Health.

Date: August 21, 1987.

[FR Doc. 87–19823 Filed 8–27–87; 8:45 am]

BILLING CODE 4510–43–M

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health Full Committee Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on September 1 and 2, 1987, at 9:00 am in Room C–2318 ABC at the Frances Perkins Department of Labor Building, 200 Constitutional Avenue NW., Washington, DC.

NACOSH was established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the Act.

The public is invited to attend these meetings. The committee will receive reports from the subgroups on worksite safety and health programs, future OSHA activities and standard-setting that were formed at the May 21, 1987 meeting. A detailed agenda will be prepared, made publicly available and sent to members prior to the meeting. Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Committee chairperson to the extent to which time permits.

For additional information contact: Tom Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N–3647, Third Street and Constitutional Avenue NW., Washington, DC 20210. Telephone: 202–523–8615.

Official records of the meeting will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, DC, this 25th day of August 1987.

John A. Pendergrass,

Assistant Secretary.

[FR Doc. 87–19788 Filed 8–25–87; 4:29 pm]

BILLING CODE 4510–26–M

MERIT SYSTEMS PROTECTION BOARD

Information Collection To Obtain Information From Certain Appellants Before the Merit Systems Protection Board

AGENCY: Merit Systems Protection Board.

ACTION: Information collection request submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, Pub. L. 96–511, 5 U.S.C. Chapter 35, for review.

SUMMARY: Under the provisions of 5 CFR 1320.12, the Merit Systems Protection Board (MSPB) has requested

OMB review of a questionnaire to be used to collect information from appellants who did not have an attorney or other representative when making an appeal to MSPB. The questionnaire will seek information concerning the potential release of those appellants' names and addresses under the Freedom of Information Act. This information would be used to assist the MSPB in making an information determination whether under the provisions of the Freedom of Information Act, 5 U.S.C. 552(b)(6), release of the names and addresses of appellants would constitute "* * * a clearly unwarranted invasion of personal privacy," and thus, should be denied.

DATE: Comments concerning this information collection must be submitted on or before September 28, 1987.

ADDRESSES: Copies of the submission to OMB may be obtained from Paul D. Mahoney, Director, Policy and Evaluation, Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, DC 20419; telephone (202) 653–8900. Comments on the submission should be addressed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 3208, New Executive Office Building, Washington, DC 20503, Attention: Katie Lewin, Desk Officer for MSPB; telephone (202) 395–7321.

FOR FURTHER INFORMATION CONTACT: Keith Bell, Office of Policy and Evaluation, Merit Systems Protection Board, 1120 Vermont Avenue NW., Washington, DC 20419; telephone (202) 653–7208.

Date: August 24, 1987.

Shannon McCarthy,

Deputy Clerk of the Board.

[FR Doc. 87–19828 Filed 8–27–87; 8:45 am]

BILLING CODE 7400–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATE: Requests for copies must be received in writing on or before October 13, 1987. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESS: Address requests for single copies of schedules indentified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Air Force, (N1–AFU–87–33). Procurement authorizations for materiel procurement program.

2. Department of the Navy, Chief of Naval Operations, Naval Medical Command (N1–NU–87–2). Pharmacy records including completed prescription forms, locally prepared formularies and drug lists, and narcotics, alcohol, and controlled drug accounting records.

3. Department of Commerce, Bureau of the Census (N1–29–87–2). Machine-readable records from the Income Survey Development Program.

4. Department of the Interior, Bureau of Mines (N1–70–87–2). Records relating to personnel and classified documents security.

5. Agency for International Development (N1–286–86–3). Comprehensive schedule for records in electronic form.

6. The Japan-United States Friendship Commission (N1–220–87–5). Grant case files, index logs, and rejected grant applications.

7. National Archives and Records Administration, Office of Records Administration, Records Appraisal and Disposition Division (N1–GRS–87–17). Addition to General Records Schedule 16, Administrative Management Records, of documents published in the **Federal Register.**

8. National Archives and Records Administration, Office of Records Administration, Records Appraisal and Disposition Division (N1–GRS–87–19). Changes and additions to General Records Schedule 23, Records Common to Most Offices.

9. National Archives and Records Administration, Office of Management and Administration, Program Policy and Evaluation Division (N1–64–87–1). Comprehensive records disposition schedule for administrative and program records.

10. Office of Personnel Management, Office of Information Management (N1–146–87–2). Form RI 25–14, Self-certification of Full-time School Attendance, and Form RI 25–15, Survey of Student's Eligibility to Receive Benefits, or equivalents.

11. Tennessee Valley Authority, Division of Property and Services (N1–

142–86–1). Comprehensive records schedule.

Dated: August 24, 1987.

Claudine J. Weiher,

Acting Archivist of the United States.

[FR Doc. 87–19750 Filed 8–27–87; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL SCIENCE FOUNDATION

Privacy Act of 1974; New System of Records

AGENCY: National Science Foundation.

ACTION: Notice of new system of records and routine uses.

This document provides notice of the existence and character of a proposed new system of records, NSF–49, that is designated "Frequent Traveler Profile". This system will be established and maintained by the NSF, enabling it to collect and use information relating to its employees who travel frequently. The information will be solicited in accordance with the Privacy Act of 1974 and will be used to facilitate traveler reservations and ticket requests.

EFFECTIVE DATE: The new system of records and its routine uses will become effective 30 days after publication of this notice, unless comments are received on or before that date that would result in a contrary determination. In this case a notice will be published to that effect.

Comments: Comments should be addressed to the NSF Privacy Act Officer, Division of Personnel and Management, National Science Foundation, Room 208, 1800 G Street NW., Washington, DC 20550. Written comments will be available for public inspection in Room 208, at the above address between the hours of 9:00 am and 4:00 pm.

NSF–49

SYSTEM NAME:

Frequent Traveler Profile.

SYSTEM LOCATION:

National Science Foundation, Division of Administrative Services, 1800 G. Street NW, Washington, DC 20550

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

National Science Foundation frequent travelers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Home telephone numbers, credit card information, special handicap requirements, passport numbers and issue dates, and travel preference information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information will be given to airlines for contacting traveler after hours or on weekends when there are schedule changes. Special requirements (wheelchair, etc.) will be given to airlines and hotels as appropriate. Credit card information will be given to hotels to guarantee room reservations.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained manually in NSF files. Information is also maintained in a computer system at American Airlines.

RETRIEVABILITY:

Records are filed alphabetically by last name.

SAFEGUARDS:

NSF employs a security guard and the building is locked during non-business hours when the guard is not on duty. Rooms in which records are kept are locked during non-business hours.

RETENTION AND DISPOSAL:

Credit cards and passposts expire and must be renewed periodically. Profiles are destroyed when employees retire or leave the Foundation.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Administrative Services, National Science Foundation, 1800 G Street NW., Washington, DC 20550

NOTIFICATION PROCEDURE:

The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

RECORD ACCESS PROCEDURES:

See "Notification Procedures" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedures" above.

RECORD SOURCE CATEGORIES:

Information is received from individual.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: August 25, 1987.

Herman G. Fleming,

NSF Privacy Act Officer.

[FR Doc. 87–19792 Filed 8–27–87; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–14697; License No. 35–18229–01; EA 87–99]

Confirmatory Order Modifying License; Well Logging, Inc.

I

Well Logging, Inc. (Licensee), P.O. Box 506, Nowata, Oklahoma 74048 holds Byproduct Material License No. 35–18229–01, which authorizes the Licensee to possess and use sealed sources for down-hole logging. The license was issued on June 18, 1985.

II

On May 14, 1987, a routine unannounced radiation safety inspection was conducted of the Licensee's facilities. As a result of the inspection, eleven violations of NRC requirements have been identified. The violations include: (a) Failure to survey storage locations, (b) failure to survey job sites, (c) failure to survey transportation vehicles, (d) failure to maintain records of utilization of licensed material, (e) use of a survey instrument not in calibration, (f) unauthorized use of radioactive material, (g) failure to leak test sealed sources at the required interval, (h) failure to maintain complete records of personnel monitoring results, (i) failure to properly label containers used to transport radioactive materials, (j) failure to maintain documentation showing the results of special form material testing, and (k) failure to perform physical inventories. The NRC is concerned that the circumstances surrounding the above violations collectively reflect a significant breakdown in management oversight and inadequate control over the safe use of licensed material. On June 19, 1987, Region IV issued a Confirmation of Action Letter documenting the Licensee's commitments to retain a consultant to: audit the Licensee's operations, review procedures, reexamine license requirements, develop management controls, and provide additional on-the-job training for those individuals using licensed material. The consultant shall further conduct a follow-up audit within 6 months of the initial audit with the report findings fowarded to NRC Region IV. In addition, the Licensee agreed to maintain the sealed sources in secure stroage until the license is amended authorizing a designated user. Because of the importance of these commitments to the safe and appropriate use of

licensed material, I have determined that the public health and safety require that the Licensee's commitments should be confirmed by an immediately effective Order.

III

In view of the foregoing and pursuant to sections 81, 161b, 161i, and 161o of the Atomic Energy Act of 1954, as amended (Act), and the Commission's regulations in 10 CFR 2.204 and Part 30, it is hereby ordered that:

1. The Licensee shall obtain the services of a consultant who is trained and experienced in the radiation protection aspects of sealed source use in oil/gas wells. The Licensee shall submit the name and qualifications of the consultant to the Region IV office and the date of first visit to the Licensee's facility within one month of receipt of this letter.

2. The Licensee shall engage this consultant to audit operations, review procedures and license requirements, develop management controls to ensure compliance with license requirements, and prepare a report of findings, which the Licensee will forward to NRC Region IV within 20 days of the completion of the audit.

3. The Licensee shall engage this consultant to provide additional on-the-job training for any individuals who will use licensed material during oil or gas well logging techniques under field conditions. This training will include source handling and survey techniques under field conditions.

4. The Licensee shall engage this consultant to perform a follow up audit within 6 months of the first audit and report those findings to NRC Region IV within 20 days of the completion of the audit. The consultant would be expected to state that operations are in compliance with NRC requirements, personnel have been adequately trained, and management controls are in place.

5. The Licensee shall keep the sealed sources in secure storage until the license is amended authorizing a designated user of licensed material.

The Regional Administrator, Region IV, or his designee may relax or rescind any of the above provisions after a period of one year and upon demonstration by the licensee of good cause shown and petition for amendment to the license.

The licensee or any other person adversely affected by this Order may request a hearing within 20 days of the date of this Order. A request for a hearing should be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region IV.

If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested by the Licensee or any person who has an interest adversely affected by this Order, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issues to be considered at such hearing shall be whether this Order should be sustained.

For the Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

Dated at Bethesda, Maryland, this 24th day of August 1987.

[FR Doc. 87-19798 Filed 8-27-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 030-01391; License No. 12-01087-07; EA 87-150]

Order to Show Cause Why License Should Not Be Modified, Effective Immediately; Edward Hines, Jr. Medical Center

I

Edward Hines, Jr. Medical Center (Veterans Administration) Hines, Illinois, (licensee/hospital) is the holder of specific byproduct material license of broad scope No. 12-01087-07 (the license) issued by the Nuclear Regulatory Commission (Commission/NRC) pursuant to 10 CFR Parts 30, 33 and 35. The license authorizes the licensee to use: (1) byproduct material listed in Groups I through VI of Schedule A, § 35.100 of 10 CFR Part 35 (under the new revised 10 CFR Part 35 this material is identified in Subparts D, E, F, and G) for diagnostic and therapeutic procedures; (2) any byproduct material between Atomic Nos. 1 and 83, inclusive, and (3) xenon-133 for blood flow and pulmonary function studies. The license was originally issued on October 15, 1958, was most recently renewed on September 24, 1985, and expires on September 30, 1990.

II

From December 16, 1986 through January 22, 1987, and April 16 through June 30, 1987, NRC inspections and investigations were conducted at Edward Hines, Jr. Medical Center, Hines, Illinois. As a result of these inspections and investigations, violations of NRC requirements were identified. The NRC has established that three misadministrations occurred during the week of August 4–8, 1986. The first and third misadministrations (Paragraphs C. and E., below) were not reported to the NRC as required. The second misadministration (Paragraph D., below) occurred, but was not required to be reported to the NRC because the material involved, gallium-67, is not regulated by the NRC. However, it appears that, with regard to the first and second misadministrations, the Assistant Chief, Nuclear Medicine Service (NMS) was informed that these misadministrations had occurred, and took actions to conceal the fact that the misadministrations had occurred and to impede the NRC investigation into whether misadministrations had occurred during that time frame.

Specifically, based on sworn interviews conducted by the NRC's Office of Investigations (OI) between April 16 and June 30, 1987, and on interviews during a special inspection by NRC Region III inspectors conducted December 16, 1986 through January 22, 1987, it appears that the following occurred:

A. On August 14, 1986, NRC Region III received an anonymous allegation that three diagnostic misadministrations occurred at Edward Hines, Jr. Medical Center during the week of August 4–8, 1986, and were not reported to the NRC as required by 10 CFR 35.43.[1] It was further alleged that Dr. Maynard L. Freeman, Assistant Chief, NMS, was notified of the three misadministrations by the Acting Chief Technologist for that week (the Assistant Chief Technologist), but took no action to ensure that those events were reported. It has been established that Dr. Freeman was aware of the reporting requirements for diagnostic misadministration. The NRC subsequently verified that these misadministrations did occur, and at least two of the misadministrations were made known to Dr. Freeman shortly after they occurred.

B. On October 29, 1986, the Director, Edward Hines, Jr. Medical Center, ordered an investigation into the three alleged misadministrations. The V.A. Investigatory Board concluded that only

[1] The Commission's regulations have since been revised. The requirements for reporting misadministration are presently set forth in 10 CFR 35.33.

one of the three events may have involved a misadministration but that a definite conclusion could not be drawn in that case. A subsequent NRC investigation determined that the V.A. investigation reached erroneous conclusions because, among other matters, a nuclear medicine technologist subsequently admitted to NRC investigators, under oath, that he had made a false statement to the V.A. Investigatory Board.

C. On August 4, 1986, a patient who was scheduled for a bone scan was injected with a brain scanning agent. The patient was subsequently injected with the bone scanning agent. Although Dr. Freeman was informed by the Assistant Chief Technologist that a misadministration may have occurred, he failed to take the steps necessary to have the misadministration reported to the NRC as was then required by 10 CFR 35.43. When questioned about the event by the V.A. Investigatory Board and by NRC investigators, Dr. Freeman stated that the event did not involve a misadministration because he had verbally instructed the nuclear medicine technologist who administered the injection to inject a brain scanning agent rather than a bone scanning agent. The NRC investigation determined that this was a false statement, as no such instruction was actually given. The Assistant Chief Technologist testified that there was no discussion of a brain scan being appropriate before the injection was given. The attending physician testified that he had originally requested a non-specified scan, that during a telephone discussion with the nuclear medicine department it was determined that a bone scan would be performed, and that when the attending physician received the results of the scan he assumed that a bone scan had been performed. The nuclear medicine technologist testified that a brain scanning agent was injected by mistake and, when he realized that a mistake had been made, a bone scanning agent was then injected. The nuclear medicine technologist further testified that he had never been instructed by Dr. Freeman to perform a brain scan rather than a bone scan. In addition, the nuclear medicine technologist further testified that he had falsely stated to the V.A. Investigatory Board that he remembered Dr. Freeman telling him to inject a brain scanning agent because Dr. Freeman had previously stated to the Chief of the Nuclear Medicine Department in the presence of the technologist that he had given such an instruction, and the technologist feared to contradict Dr. Freeman. Dr. Freeman also falsely stated to the V.A. Investigatory Board that he had ordered the technologist to perform a brain scan. Finally, the Chief Technologist testified that in his presence Dr. Freeman removed and destroyed a dose calibration ticket indicating that a bone scan had been given.

D. On August 4, 1986, a patient received a gallium-67 dose which had been intended for another patient. Dr. Freeman was informed by the Assistant Chief Technologist that a misadministration had occurred. Dr. Freeman subsequently obtained a written prescription to perform a gallium scan on the misadministered patient from a physician who was acting in the place of the patient's attending physician without informing the acting physician that the injection had already been administered. Both the acting physician and the attending physician indicated that the normal practice of the hospital would be to request that approval prior to, not following, the injection. The attending physician testified that she could not find any evidence in the patient's file that she had ordered a gallium injection to be administered to this patient on August 4. While this misadministration did not require reporting under to 10 CFR 35.43 because gallium-67 is not regulated by the NRC, these events indicate that Dr. Freeman attempted to conceal the fact that a misadministration had occurred, and shed doubt on Dr. Freeman's credibility and ability to ensure the safe conduct of licensed activities.

E. On August 6, 1986, a patient scheduled for a gallium-67 scan received a bone scan that was scheduled for another patient. This constituted a misadministration which was not reported to the NRC as required.

F. Following these events, prior to the NRC investigation, it appears that Dr. Freeman attempted to influence the testimony of a witness. Specifically, in November 1986, Dr. Freeman telephoned the Assistant Chief Technologist and suggested that she respond to the questions of NRC investigators by saying that she could not recall what had occurred.

G. Previous NRC inspections and this investigation have shown that greater management attention was required to correct recurring violations, such as failure to properly maintain records, perform surveys, and train employees. On January 12, 1987, the NRC issued a Confirmatory Action Letter that addressed these violations of procedures. By accepting the Confirmatory Action Letter, the licensee has committed to complying with the requirements of that Letter. These requirements are incorporated in paragraph IV B–E of this Order, with an expansion of the requirement for a periodic audit program.

III

Licensees must adhere strictly to radiation safety requirements so that the medical use of NRC-licensed material does not create a radiation hazard to workers and members of the public. The proper and competent performance of licensee employees is essential to ensuring the safe conduct of licensed activities. 10 CFR Part 35 of the Commission's regulations establishes requirements applicable to human use of byproduct materials, including, at the time of these occurrences, the reporting of diagnostic misadministrations under 10 CFR 35.43.

Dr. Freeman testified that he had approved reports for previous misadministrations, and that he knew of the reporting requirements. The evidence indicates that Dr. Freman was aware that diagnostic misadministrations had occurred on at least two occasions and that he was required to ensure that one of these misadministrations was reported to the NRC. However, he failed to ensure that that misadministration was reported. In addition, it appears that Dr. Freeman made a false statement to the V.A. Investigatory Board and NRC investigators, destroyed evidence, improperly obtained additional evidence, and attempted to impede the NRC investigation by influencing the testimony of a witness, all in order to conceal the fact that these misadministrations had occurred. These actions demonstrate that there is no longer reasonable assurance that Dr. Freeman can be relied on to comply with Commission requirements in the performance or supervision of licensed activities or that the licensee will comply with Commission requirements while Dr. Freeman is conducting or supervising licensed activities as an authorized user at Edward Hines, Jr. Medical Center.

In addition, NRC inspections over the last several years and this investigation disclosed that licensee's management and staff failed to implement and adequately control the licensee's program for administration of radiopharmaceuticals to patients. Specifically, the licensee failed to: (1) Report misadministrations; (2) properly control dose administration records; (3) effectively train nuclear medicine staff; (4) verify procedure orders; and (5)

provide accurate information to the V.A. Investigatory Board and the NRC.

Therefore, I am issuing this Order. I have determined pursuant to 10 CFR 2.201(c) that no prior notice is required and pursuant to 10 CFR 2.202(f) and 2.204 that the public health, safety and interest require that this Order should be immediately effective.

Accordingly, pursuant to sections 81, 161(b), (i), and (o), 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 2.204 and 10 CFR Parts 30 and 35, *it is hereby ordered effective immediately that:*

A. License No. 12–01087–07 is amended by adding the following condition: On receipt of this Order, Dr. Maynard L. Freeman shall be removed from all licensed activities and shall thereafter not serve in any position involving the performance or supervision of any licensed activities (e.g., as an authorized user) including the supervision of any nuclear medicine technologists.

B. The licensee shall hold in-service classes at least annually for all Nuclear Medicine Service personnel to asure a complete understanding of regulations, policies, and procedures relating to misadministration reporting procedures. The licensee shall keep records of this training.

C. The licensee shall use and maintain records to provide precise tracking and comprehensive documentation of dosage measurement and administration.

D. The licensee shall assure that all prescriptions for nuclear medicine procedures are: (1) In writing; (2) reviewed by a nuclear medicine physician; and (3) verified by the technologist prior to administration of the dose to a patient, except where this would jeopardize emergency patient care.

E. Within 30 days of the date of this Order, the licensee shall: (1) Retain an independent organization to perform quarterly audits of the nuclear medicine department, and (2) submit to the Regional Administrator, NRC Region III, for approval, a description of the organization retained, including the name(s) and resume(s) of the individual(s) who will perform the audits. The requirement for independence of the organization may be satisfied by use of VA personnel who have not been associated in any way with V.A. Edward Hines, Jr. Medical Center.

These audits shall be conducted to evaluate the effectiveness of the radiation safety program in assuring adherence to NRC requirements and safe performance of licensed activities. These audits shall include as a minimum:

1. Assessment of management control and oversight of the program;

2. Evaluation of the adequacy of staffing levels, training and qualification of personnel involved in licensed activities, understanding of the procedures concerning misadministrations and reporting, and implementation of the program;

3. Observation and evaluation of the performance of personnel engaged in licensed activities; and

4. Assessment of the quality and accuracy of records required to be maintained concerning licensed activities.

The first independent audit shall be conducted within one month of the date of this Order. The results of each audit shall be simultaneously provided to the Hospital Director and the Director, Division of Radiation Safety and Safeguards (DRSS), NRC Region III, within two weeks of completion of the audit. Within 30 days of receipt of the results of each audit, the hospital shall provide to the Director, DRSS, NRC Region III, a description of the corrective actions taken for each recommendation by the independent party and justification for any recommendation not accepted.

The Regional Administrator, Region III, may relax or terminate any of these conditions for good cause shown.

V

Dr. Freeman may show cause why Condition A of this Order should not have been issued and should be vacated by filing a written answer under oath or affirmation within 30 days of the date of this Order which sets forth the matters of fact and law on which he relies. Dr. Freeman may answer as provided in 10 CFR 2.202(b) by consenting to Condition A of this Order. If Dr. Freeman fails to answer within the specified time, Condition A of this Order shall be final without further proceedings, unless the licensee shows cause why Condition A should not have been issued or requests a hearing as to Condition A.

The licensee may show cause why this Order should not have been issued and should be vacated by filing a written answer under oath or affirmation within 30 days of the date of this Order which sets forth the matters of fact and law on which the licensee relies. The licensee may answer as provided in 10 CFR 2.202(b) by consenting to this Order. If the licensee fails to answer within the specified time, this Order shall be final with respect to Conditions B-E without further proceedings and shall be final with respect to Condition A unless Dr. Freeman shows cause why Condition A should not have been issued or requests a hearing.

The licensee or any other person adversely affected by this Order may request a hearing within 30 days after issuance of this Order. Any answer to this Order or any request for hearing shall be submitted to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies shall also be sent to the Assistant General Counsel for Enforcement at the same address and to the Regional Administrator, U.S. Nuclear Regulatory Commission, Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is adversely affected by the Order and should address the criteria set forth in 10 CFR 2.714(d). Upon the failure of the licensee and any other person adversely affected by this Order to answer or request a hearing within the specified time, this Order shall be final without further proceedings. An answer to this order or a request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is requested, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland, this 24th day of August 1987.

James M. Taylor,

Deputy Executive Director for Regional Operations.

[FR Doc. 87–19799 Filed, 8–27–87; 8:45 am]
BILLING CODE 7590–01–M

Nuclear Power Reactor Operating Licenses; Annual License Fee for Fiscal Year 1988

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notification of amount of FY 1988 annual fee for nuclear power reactor operating licenses.

SUMMARY: The Nuclear Regulatory Commission is hereby publishing the amount of the annual fee to be assessed

during FY 1988 for nuclear power reactor operating licenses.

FOR FURTHER INFORMATION CONTACT: C. James Holloway, Jr., Chief, License Fee Management Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301/492–7225.

Background and Notice of Amount

On September 18, 1986, the Nuclear Regulatory Commission published a finan new regulation, 10 CFR Part 171, on Annual Fee for Power Reactor Operating Licenses. This regulation became effective on October 20, 1986, and imposed an annual fee on companies with NRC operating licenses for nuclear power reactors. Under the provisions of 10 CFR 171.13, notice of the amount of the annual fee for each fiscal year is to be published in the **Federal Register** on or before September 1 of each year. The formula for computing fees as set forth in 10 CFR 171.15(c) has been used to determine the amount of fees for FY 1988. Based on this formula, notice is hereby given, pursuant to 10 CFR 171.13, that the annual fee to be assessed in FY 1988 for each nuclear power reactor operating license will be $936,000. This fee is applicable beginning October 1, 1987, and will be collected in accordance with 10 CFR Part 171. The analysis used for determining the annual fee is available in the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

Dated at Bethesda, Maryland, this 25th day of August 1987.

For the Nuclear Regulatory Commission.

Ronald M. Scroggins,

Controller.

[FR Doc. 87–19800 Filed 8–27–87; 8:45 am]

BILLING CODE 7590–01–M

Standard Review Plan; Public Comment Solicited

The Nuclear Regulatory Commission (NRC) is issuing for comment a new Standard Review Plan (SRP) Section which is published in its entirety below. The new SRP Section will be used by the NRC staff to evaluate all submittals from licensees and applicants dealing with implementation of leak-before-break technology under the broad scope amendment to General Design Criterion 4 (GDC–4) of Appendix A, 10 CFR Part 50. This amendment is expected to be published as a final rule in November or December of 1987. The new SRP section 3.6.3 had its genesis in the USNRC Piping Review Committee Report, NUREG–1061, Volume 3, dated November 1984, but has undergone substantial revision as a result of the efforts of the NRC staff, NRC contractors and consultants, the Committee to Review Generic Requirements (CRGR), and the Advisory Committee on Reactor Safeguards (ACRS). Additionally, nuclear industry comments on the proposed broad scope amendment to GDC–4 (51 FR 26393) have also had major impacts on the present version of SRP 3.6.3. The CRGR endorsed publication of this notice at their 119th meeting on July 22, 1987, and the ACRS endorsed publication of this notice at their 328th meeting on August 7, 1987.

While the entire SRP 3.6.3 is open to public comment, the staff particularly invites remarks on the following:

1. With respect to the evaluation of structures protecting essential equipment as stated in V. *Implementation* below, comment is requested on the need to assume "pressurizations associated with an area equivalent to the cross section of the controlling pipe and a linear release time of three seconds" in piping which qualifies for leak-before-break.

2. With respect to corrosion resistance of piping as stated in III. *Review Procedures,* item 6., below, comment is requested on the statement that piping susceptible to IGSCC may qualify for leak-before-break if two mitigating methods are applied "within the first two years of service".

3. Regarding the statement in V. *Implementation* that "Requirements for containment design * * * are not affected", the staff's current position is that the cited requirements include pressurizations, pipe whip effects and jet impingement effects from pipe ruptures on containment pressure boundaries and primary structures, and in the case of containments with pressure suppression design features, the effects of pipe ruptures on those features. The proposed amendment to General Design Criterion 4 (51 FR 26393) mentioned that the Commission recognizes the need to address whether and to what extent leak-before-break can be applied to containment design bases. Comments are requested on how containment design bases might be modified together with the associated technical justifications for the proposed modification, particularly with respect to pipe whip effects and jet impingement effects. Commenters may wish to differentiate between existing plants and new design concepts not yet constructed.

The full text of SRP 3.6.3 is as follows:

3.6.3 Leak-Before-Break Evaluation Procedures

Review Responsibilities

Primary—Materials Engineering Branch, NRR

Secondary—Mechanical Engineering Branch, NRR

I. Areas of Review

General Design Criterion 4 (GDC–4) of Appendix A to 10 CFR Part 50 allows the use of analyses reviewed and approved by the Commission to eliminate from the design basis the dynamic effects of the pipe ruptures postulated in SRP section 3.6.2. The staff reviews and approves each plant specific and fluid piping system specific submittal from licensees and applicants to eliminate these dynamic effects. Approval of these "leak-before-break" analyses by the staff permits the case-by-case removal of protective hardware such as pipe whip restraints and jet impingement barriers, the redesign of pipe connected components, their supports and their internals, and other related changes in operating plants. Likewise, requirements in plants under construction or to be designed in the future are similarly relaxed. The staff review assures that adequate consideration has been given to direct and indirect pipe failure mechanisms and other degradation sources which could challenge the integrity of piping. The staff review of direct pipe failure mechanisms comprises the following elements:

1. An evaluation over the entire life of the plant of the following:

a. Water Hammer,

b. Creep Damage,

c. Erosion,

d. Corrosion,

e. Fatigue,

f. Environmental Conditions.

2. A deterministic fracture mechanics and leak are evaluation.

The staff reviews the factors which contribute to the initial quality of the piping and the provisions adopted to maintain this quality. In addition, leak detection methods are examined to assure that adequate detection margins exist for the postulated throughwall flaw used in the deterministic fracture mechanics evaluation.

Indirect failure mechanisms as defined in the plant FSAR which could lead to pipe rupture are investigated. These include seismic events and system overpressurizations due to accidents resulting from human error, fires, or flooding which cause electrical and mechanical control systems to

malfunction. Missiles from equipment, damage from moving equipment and failures of structures, systems or components in close proximity to the piping are investigated as well. However, the results of prior analyses conducted to show compliance with Commission regulations can be applicable to potential sources of indirect pipe rupture.

II. Acceptance Criteria

Acceptance criteria are based on meeting the requirements of General Design Criterion 4 as it relates to the exclusion of dynamic effects of the pipe ruptures postulated in SRP section 3.6.2. Analyses reviewed and approved by the staff must demonstrate that the probability of fluid system piping rupture is extremely low under conditions consistent with the design basis of the piping. The design basis for the piping means those conditions specified in the FSAR, as amended, and may include 10 CFR Part 50, applicable sections of the Standard Review Plan, Regulatory Guides, and industry standards such as the ASME Boiler and Pressure Vessel Code. A deterministic evaluation that demonstrates sufficient margins against failure, and that includes verified design and fabrication in addition to an adequate inservice inspection program, can be assumed to satisfy the extremely low probability criterion.

Leak-before-break should only be applied to ASME Code Class 1 and 2 piping or the equivalent. Applications to other high energy piping will be considered based on an evaluation of the proposed design and inservice inspection requirements as compared to ASME Code Class 1 and 2 requirements.

Approval of the elimination of dynamic effects from postulated pipe ruptures is obtained individually for particular piping systems at specific nuclear power units. Leak-before-break cannot be applied to individual welded joints or other discrete locations. Leak-before-break is applicable only to an entire piping system or anlayzable portion thereof. Analyzable portions are typically segments located between anchor points. When leak-before-break technology is applied, all potential pipe rupture locations are examined; the examination is not limited to those postulated pipe rupture locations determined from SRP Section 3.6.2.

III. Review Procedures

The reviewer verifies compliance with the following factors necessary for an acceptable submittal to utilize leak-before-break technology.

1. The leak-before-break evaluation uses design basis loads and is based on the as-built configuration as opposed to the design configuration. Correct location of supports and their characteristics (such as gaps) are verified, as are the weights and locations of components such as valves. Particular attention is given to the reliability of snubbers whose failure could invalidate the stresses used in the fracture mechanics evaluations. Compliance with the technical specifications can be used to demonsrtrate that snubber failure rates are maintained at a low level. Leak-before-break technology cannot be applied to piping supported by masonry block walls unless compliance with Multi-Plant Action B–59 is achieved.

2. Degradation by erosion, erosion/corrosion, and erosion/cavitation due to unfavorable flow conditions and water chemistry is examined. Industry experience for specific piping systems plays a major role in the evaluation of these degradation mechanisms. Additionally, an evaluation of fabrication wall thinning of elbows and other fittings is undertaken to assure that Code minimum wall requirements are met. These evaluations must demonstrate that these mechanisms are not potential sources of pipe rupture.

3. Determination of leakage from a system under pressure involves uncertainties and, therefore, margins are needed. Sources of uncertainties include plugging of the leakage crack with particulate material over time, leakage prediction, measurement techniques, personnel, and frequency of monitoring. Leakage detection systems are evaluated to determine that they are sufficiently reliable, redundant, and sensitive so that margin on detection of unidentified leakage exists for the throughwall flaws used in the deterministic fracture mechanics evaluation. Leak detection systems equivalent to Regulatory Guide 1.45 are required for the piping under evaluation inside the containment. The sensitivity and reliability of leakage detection systems used outside the containment must be demonstrated to be equivalent to Regulatory Guide 1.45 systems. Methods that have been shown to be acceptable include local leak detection, for example, visual observation or instrumentation. Administrative controls can be required to enforce adequate implementation of leakage detection and monitoring.

Unless a detailed justification can be presented that accounts for the effects of these sources of uncertainties, a margin of 10 on the leakage prediction will be required for determining the leakage size flaw.

4. A systems evaluation of potential water hammer is made to assure that pipe rupture due to this mechanism is unlikely. Water hammer is a generic term including various unanticipated high frequency hydrodynamic events such as steam hammer and water slugging. To demonstrate that water hammer is not a significant contributor to pipe rupture, reliance on historical frequency of water hammer events in specific piping systems coupled with a review of operating procedures and conditions may be used for this evaluation. Alternatively, design changes such as the use of J-tubes, vacuum breakers and jockey pumps coupled with improved procedures can be used to reduce concerns with water hammer. The reviewer establishes that any measures needed to abate water hammer frequency and magnitude will be effective for the life of the plant.

5. A review of creep and creep-fatigue is required. Operation below 700°F in ferritic steel piping and below 800°F in austenitic steel piping can satisfy concerns with creep.

6. The requirement that corrosion resistance of piping be demonstrated can rely on investigations of the frequency and degree of corrosion in the specific piping systems under review. Modification to operating conditions (as for example, controlling water chemistry) or design changes (as for example, replacing piping material) are measures that can be taken to improve corrosion resistance in piping. The staff recognizes that remedial residual stress improvement treatments are effective in reducing damage from intergranular stress corrosion cracking (IGSCC). However, remedial stress improvement treatments of materials susceptible to IGSCC alone do not provide a sufficient basis to support leak-before-break evaluations. The staff would, however, review such evaluations on a case-by-case basis if hydrogen water chemistry were used as an adjunctive measure with the remedial stress improvement treatments. The licensees' practices with regard to facility water chemistry would be an additional factor considered in the review. Piping susceptible to IGSCC with any planar flaws in excess of the standards in IWB 3514.3 of section XI of the ASME Code, would not be permitted to use leak-before-break analyses. However, piping susceptible to IGSCC that has been treated by two mitigating methods within the first two years of service may qualify for leak-before-break if the piping contains no flaws larger than those permitted by IWB

3514.3 of section XI of the ASME Code. Piping repaired by weld overlays cannot apply leak-before-break technology.

7. An assessment of potential indirect sources of pipe ruptures is required to demonstrate that indirect failure mechanisms defined in the plant FSAR are remote causes of pipe rupture. Compliance with the snubber surveillance requirements of the technical specifications assures that snubber failure rates are acceptably low.

8. The reviewer determines that the piping material is not susceptible to brittle cleavage-type failure over the full range of system operating temperatures (that is, the material is on the upper shelf).

9. The reviewer determines that the system(s) under evaluation do not have a history of fatigue cracking or failure. An evaluation is performed to assure that the potential for pipe rupture due to thermal and mechanical induced fatigue is extremely low. Licensees and applicants must demonstrate that there is adequate mixing of high and low temperature fluids so that there is no potential for significant cyclic thermal stresses. In addition, it must also be demonstrated that there is no significant potential for vibration induced fatigue cracking or failure.

10. The following steps constitute an acceptable deterministic leak-before-break evaluation procedure:

a. Demonstrate the accuracy of both the fracture mechanics and the leak rate computational methods by comparison with other acceptable computational procedures or with experimental data.

b. Identify the types of materials and materials specifications used for base metal, weldments and safe ends, and provide the materials properties including toughness and tensile data, long-term effects such as thermal aging, and other limitations.

c. Specify the type and magnitude of the loads applied (forces, bending and torsional moments), their source(s) and method of combination. For each pipe size in the functional system, identify the locations(s) which have the least favorable combination of stress and material properties for base metal, weldments and safe ends.

d. Postulate a throughwall flaw at the location(s) specified in (c.) above. The size of the flaw should be large enough so that the leakage is assured of detection with the margin specified in III.3 above using the installed leak detection capability when the pipes are subjected to normal operating loads. If auxiliary leak detection systems are relied on, they should be described. For the estimation of leakage, the normal operating loads (i.e., deadweight, thermal expansion, and pressure) are to be combined based on the algebraic sum of individual values.

e. Using fracture mechanics stability analysis or limit load analysis based on (1.) below, and normal plus SSE loads, determine the critical crack size for the postulated throughwall crack. Determine crack size margin by comparing the selected leakage size crack to the critical crack size. Demonstrate that there is a margin of 2 between the leakage and critical crack sizes. The same load combination method selected in (f.) below must be used to determine the critical crack size.

f. Determine margin in terms of applied loads by a crack stability analysis. Demonstrate that the leakage size cracks will not experience unstable crack growth if 1.4 times the normal plus SSE loads are applied. Demonstrate that crack growth is stable and the final crack is limited such that a double-ended pipe break will not occur. However, the 1.4 margin can be reduced to 1.0 if the deadweight, thermal expansion, pressure, SSE (inertial), and seismic anchor motion (SAM) loads are combined based on individual absolute values as follows:

$$F_{Combined} = |F_{Deadweight}| + |F_{Thermal}| + |F_{Pressure}| + |F_{SSE}| + |F_{SAM}|$$

$$(M_i)_{Combined} = |(M_i)_{Deadweight}| + |(M_i)_{Thermal}| + |(M_i)_{Pressure}| + |(M_i)_{SSE}| + |(M_i)_{SAM}|$$

$$(M)_{Combined} = \sqrt{(M_1)^2_{Combined} + (M_2)^2_{Combined} + (M_3)^2_{Combined}}$$

where F denotes the axial force, M_i denotes the i-th component of moment (i = 1, 2, 3), M denotes the total moment, and the subscripts denote the load. An evaluation of seismic anchor motion loads at SSE conditions may be omitted when these are shown to be small at OBE conditions.

g. The piping materials toughness (J–R curves) and tensile (stress-strain curves) properties should be determined at temperatures near the upper range of normal plant operation.

h. The specimen used to generate J–R curves should be large enough to provide crack extensions up to an amount consistent with J/T condition determined by analysis for the application. Because practical specimen size limitations exist, the ability to obtain the desired amount of experimental crack extension may be restricted. In this case, extrapolation techniques may be used as described in NUREG–1061, Volume 3, or in NUREG/CR–4575. Other techniques can be used if adequately justified.

i. The stress-strain curves should be obtained over the range from the proportional limit to maximum load.

j. Preferably, the materials tests should be conducted using archival material for the pipe being evaluated. If archival material is not available, plant specific or industry wide generic material data bases can be assembled and used to define the required material tensile and toughness properties. Test material should include base and weld metals.

k. To provide an acceptable level of reliability, plant specific generic data bases must be reasonable lower bounds for compatible sets of material tensile and toughness properties associated with materials at the plant. To assure that the plant specific generic data base is adequate, a determination must be made to demonstrate that the generic data base represents the range of plant materials to be evaluated. This determination is based on a comparison of the plant material properties identified in (b.) above with those of the materials used to develop the generic data base. The number of material heats and weld procedures tested must be adequate to cover the strength and toughness range of the actual plant materials. Reasonable lower bound tensile and toughness properties from the plant specific generic data base are to be used for the stability analysis of individual materials, unless otherwise justified.

Industry generic data bases must provide a reasonable lower bound for the population of material tensile and toughness properties associated with any individual specification (e.g., A106, Grade B), material type (e.g., austenitic steel) or welding procedures.

The number of material heats and weld procedures tested must be adequate to cover the range of the strength and tensile properties expected for specific material specifications or types. Reasonable lower bound tensile and toughness properties from the industry generic data base are to be used for the stability analysis of individual materials.

If the data are being developed from an archival heat of material, three stress-strain curves and three J–resistance curves from that one heat of material is sufficient. Tests should be conducted at temperatures near the upper range of normal plant operation. Tests should also be conducted at a lower temperature, which may represent a plant condition (e.g., hot standby) where pipe break would present safety concerns similar to normal operation. These tests are intended only to determine if there is any significant dependence of toughness on temperature over the temperature range of interest. The lower toughness should be used in the fracture mechanics evaluation. One J–R curve and one stress-strain curve for one base metal and weld metal are considered adequate to determine temperature dependence.

1. There are certain limitations that currently preclude generic use of limit load analyses to evaluate leak-before-break conditions for elimination pipe restraints. However, a modified limit-load analysis can be used for austenitic steel piping to demonstrate acceptable margins as indicated below:

Construct a master curve where a stress index, SI, given by

$$SI = S + M P_m \qquad (1)$$

is plotted as a function of postulated total circumferential through-wall flaw length, L, defined by

$$L = 2 \theta R \qquad (2)$$

where

$$S = \frac{2 \sigma_f}{\pi} [\, 2 \sin \beta - \sin \theta \,], \qquad (3)$$

$$\beta = 0.5 [(\pi - \theta) - \pi (P_m/\sigma_f)], \quad (4)$$

θ = half angle in radians of the postulated throughwall circumferential flaw,

R = pipe mean radius, that is, the average between the inner and outer radius,

P_m = the combined membrane stress, including pressure, deadweight, and seismic components,

M = the margin associated with the load combination method (that is, absolute or algebraic sum) selected for the analysis,

σ_f = flow stress for austenitic steel pipe material categories.

If $\theta + \beta$ from Eqs. (2) and (4) is greater than π, then

$$S = \frac{2\sigma_f}{\pi} [\sin \beta], \quad (5)$$

where

$$\beta = - \pi (P_m/\sigma_f). \quad (6)$$

When the master curve is constructed using Eqs. (1), (2), and (3) or (5), the allowable circumferential throughwall flaw length can be determined by entering the master curve at a stress index (SI) value determined from the loads and austenitic steel piping material of interest. The allowable flaw size determined from the master curve at the appropriate SI value can then be used to determine if the required margins are met. Allowable values of Θ are those that result in S being greater than zero from Eqs. (3) and (5). The flow stress used to construct the master curve and the definition of SI used to enter the master curve are defined for each material category as follows:

Base Metal and TIG Welds:

The flow stress used to construct the master curve is

$$\sigma_f = 0.5\ (\sigma_y + \sigma_u)$$

when the yield strength, σ_y, and the ultimate strength, σ_u, at temperature are known.

If the yield and ultimate strengths at temperature are not known, then Code minimum values at temperature can be used, or alternatively if

$$\frac{(SI)}{17M} < 2.5, \text{ then}$$

$$\sigma_f = 51 \text{ ksi, or}$$

if

$$\frac{(SI)}{17M} \geq 2.5, \text{ then}$$

$$\sigma_f = 45 \text{ ksi,}$$

The value of SI used to enter the master curve for base metal and TIG welds is

$$SI = M\ (P_m + P_b) \qquad (7)$$

where

P_b = the combined primary bending stress, including deadweight and seismic components.

Shielded Metal Arc (SMAW) and Submerged Arc (SAW) Welds:

The flow stress used to construct the master curve must be 51 ksi.

The value of SI used to enter the master curve for SMAW and SAW is

$$SI = M (P_m + P_b + P_e) Z \quad (8)$$

where

P_e = combined expansion stress at normal operation,

$$Z = 1.15 [1.0 + 0.013 (OD-4)] \text{ for SMAW,} \quad (9)$$

$$Z = 1.30 [1.0 + 0.010 (OD-4)] \text{ for SAW,} \quad (10)$$

and

OD = pipe outer diameter in inches.

When the allowable flaw length is determined from the master curve at the appropriate SI value, it can be used to determine if the required margins on load and flaw size are met using the following procedure:

For an absolute sum load combination method, M=1.0, and if the allowable flaw length from the master curve is equal to at least twice the leakage size flaw, then the margins on load and flaw size are met.

For the algebraic sum method of loan combinaiton, first let M=1.4, and if the allowable flaw length from the master curve is at least equal to the leakage size flaw, then the margin on load is met. Second, let M=1.0 and if the allowable flaw length from the master curve is at least twice the leakage size flaw, then the margin on flaw size is met.

Additional guidance on the fracture mechanics evaluation can be found in NUREG–1061, Volume 3, Chapter 5, dated November 1984, and entitled "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee" and subtitled "Evaluation of Potential for Pipe Breaks".

IV. Evaluation Findings

The reviewer verifies that sufficient information has been provided and that his review supports conclusions of the following type, to be included in the staff's safety evaluation report:

The staff evaluation determines on a plant specific and piping system specific basis that the acceptance criteria are satisfied and, therefore that dynamic effects of pipe rupture may be eliminated from design consideration. When dynamic effects of pipe rupture are eliminated, protective devices such as pipe whip restraints and jet impingement barriers are no longer needed, and other related design changes can take place. The staff determination is based on the following:

1. That water hammer, corrosion, creep, fatigue, erosion, environmental conditions and indirect sources are remote causes of pipe rupture.

2. That a deterministic fracture mechanics evaluation has been completed and approved by the staff.

3. That leak detection systems are sufficiently reliable, redundant, diverse and sensitive, and that margin exists to detect the throughwall flaw used in the deterministic fracture mechanics evaluation.

V. Implementation

The following is intended to provide guidance to applicants and licensees regarding the NRC staff's plans for using this SRP section.

Except in those cases in which the applicant proposes an acceptable alternative method for complying with specific portions of the Commission's regulations, the methods described herein will be used by the staff in its evaluation of conformance with Commission regulations.

Only dynamic effects of postulated pipe ruptures may be eliminated when leak-before-break technology is shown

to be applicable. Requirements for containment design, emergency core cooling system performance and environmental qualification of electrical and mechanical equipment are not affected. (See the Supplementary Information to the final broad scope GDC–4 amendment which permits an exception to this statement for equipment qualification under certain conditions).

Applicants for operating licenses seeking to modify design features to take advantage of leak-before-break technology are required to reflect the revised design in an amendment to the pending FSAR. If the design change modifies design criteria set forth in the PSAR, an amendment to the applicable construction permit may also be necessary.

After leak-before-break technology results are accepted for specific piping systems at specific plants, any proposed future plant modifications in operating conditions or plant features may require an assessment of the impacts on the original conclusions from the initial leak-before-break evaluation.

When leak-before-break is successfully demonstrated, all postulated pipe ruptures are eliminated in the specific piping system under review. Ruptures in branch connections to the piping system under review are still postulated, unless these lines also qualify for leak-before-break. An evaluation of dynamic effects at these branch connections is required, as for example, in heavy component support design or redesign.

When dynamic effects of pipe rupture are eliminated from the design basis, current NRC criteria and industry codes, such as the ASME Code, may be required for calculating the seismic loads in the heavy component support redesign of operating plants or plants under construction (for example, when snubbers are reduced in number or capacity in older operating plants; on the other hand, changing high strength fastener material would not require the use of current codes or NRC criteria). In heavy component support redesign, the already existing SSE may be used, and improved functional reliability must be demonstrated for any changes implemented. Structural capacity associated with the original steel and concrete, including struts, columns, pedestals, hangers, trusses and skirts cannot be diminished in the support system of operating plants or plants under construction. Redesign will be limited to replacing high strength fastener material and reducing the number and capacity of snubbers. Applicants and licensees undertaking heavy component support redesign, with dynamic effects of pipe rupture eliminated, should use independent design and fabrication verification procedures to minimize the potential for design and construction errors. Displacements and rotations resulting from potential failure of redesigned lateral (horizontal) supports should not lead to the rupture of piping connected to the reactor coolant loop heavy components.

Plant design and arrangement considerations to assure protection against fluid system failures are discussed in SRP 3.6.1. SRP 3.6.2 covers the size and location of postulated breaks, postulated leakage cracks and how postulated breaks and leakage cracks affect structural design and equipment qualification.

When leak-before-break has been demonstrated to be applicable as provided for in this section, designers are cautioned that safety related equipment locations should continue to be chosen with care as discussed in B.1 of ASB 3–1 of SRP 3.6.1. Safety related equipment should not be concentrated in the vicinity of high energy lines irrespective of whether leak-before-break is applicable. Routing of high energy lines in the vicinity of control rooms is not acceptable.

When leak-before-break has been demonstrated to be applicable as provided for in this section, the following provisions of SRP 3.6.2 remain applicable:

1. Postulation of leakage cracks in piping qualifying for leak-before-break is still required (see B.3.c of MEB 3–1 of SRP 3.6.2). Leakage cracks in high and moderate energy piping not qualifying for leak-before-break are also required.

2. Evaluation of structures protecting essential equipment is still required (see B.1.c.(4) of MEB 3–1). Design of these structures includes all dynamic effects of high energy piping not qualifying for leak-before-break; however, for piping which does qualify for leak-before-break, only the pressurizations associated with an area equivalent to the cross section of the controlling pipe and linear release time of 3 seconds should be assumed, unless justification is provided for alternative leakage conditions from an evaluation of other potential sources, such as flanges, bolted covers and values.

3. Environmental qualification of safety-related equipment is specified in B.1.c(5) of MEB 3–1.Other requirements are defined by 10 CFR 50.49 and further amplified by Regulatory Guide 1.89, Revision 2. Relaxations in these requirements when leak-before-break is acceptably demonstrated can be authorized as discussed in the Supplementary Information of the final broad scope amendment to GDC–4. The authorization is expected to be a case-by-case action, and will require the licensee or applicant to seek exemption(s) to the existing requirements.

VI. References

1. 10 CFR Part 50, Appendix A, General Design Criterion 4, "Environmental and Dynamic Effects Design Bases".

2. NUREG–1061, Volume 3, "Report of the U.S. Nuclear Regulatory Commission Piping Review Committee, Evaluation of Potential for Pipe Breaks", November 1984.

3. Regulatory Guide 1.45, "Reactor Coolant Pressure Boundary Leakage Detection Systems".

4. EPRI Report NT–4690–SR, "Evaluation of Flaws in Austenitic Steel Piping", April, 1986.

Public comment letters should be sent to: David L. Meyer, Chief, Rules and Procedures Branch, Division of Rules and Records, U.S. Nuclear Regulatory Commission, Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland, 20014. Comment period expires October 13, 1987.

Comments received after this date will be considered if it is practical to do so, but assurance of consideration can only be given to comments received on or before this date. Telephone inquiries pertaining to SRP 3.6.3 should be directed to: John O'Brien, (301) 443–7854.

Dated at Rockville, Maryland, this 19 day of August 1987.

For the Nuclear Regulatory Commission.

Themis P. Speis,

Deputy Director for Generic Issues, Office of Nuclear Regulatory Research.

[FR Doc. 87–19801 Filed 8–27–87; 8:45 am]

BILLING CODE 7590–01–M

PENSION BENEFIT GUARANTY CORPORATION

Request for Extension of Approval Under the Paperwork Reduction Act of Information Collection Request; Interim Procedures for Single-Employer Plan Termination Under the Single-Employer Pension Plan Amendments Act of 1986

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB extension of approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) has requested approval by the Office of Management and Budget (OMB) for an extension of the expiration date of a

currently approved information collection request (1212–0036) without any change in the substance or in the method of collection. Current approval of the information collection is scheduled to expire on September 30, 1987. The information collection covers the information that must be submitted to the PBGC to effect either a standard or distress termination under the Single-Employer Pension Plan Amendments Act of 1986, as set forth in the PBGC's Notice of Interim Procedures, 51 FR 12491 (April 10, 1986). The effect of this notice is to advise the public of the PBGC's request for OMB approval of this extension.

ADDRESSES: All written comments (at least three copies) should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, 3208 New Executive Office Building, Washington, DC 20503. The request for extension will be available for public inspection at the PBGC Communications and Public Affairs Department, Suite 7100, 2020 K Street, NW., Washington, DC 20006, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202–778–8850 (202–778–8859 for TTY and TDD). (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Single-Employer Pension Plan Amendments Act of 1986 (SEPPAA) imposed new restrictions on and rules governing the voluntary termination of single-employer plans. Among these rules are those prescribing various notices that must be filed with the PBGC in advance of a proposed plan termination. The PBGC's Notice of Interim Procedures on voluntary terminations under SEPPAA (51 FR 12491 (April 10, 1986)) provides plan administrators with detailed guidance on complying with these notice requirements.

The information submitted to the PBGC is used by it to make the several statutorily mandated determinations it must make relative to a proposed termination. For both standard and distress terminations, the PBGC must determine whether the statutory requirements therefore have been satisfied. For distress terminations, the PBGC must also determine the level of plan funding.

These notices are filed by the plan administrator of a terminating plan. Since in the normal case plan termination is only initiated once, these notices are typically filed only once per plan. Moreover, the notice requirements themselves constitute a relatively minor burden on plan administrators because virtually all of the information/data that must be submitted is information or data that must be collected or created in order to carry out the plan termination. The PBGC, therefore, estimates that the aggregate annual burden imposed on plan administrators in filing these notices is 4660 hours. This reflects an assumptions, for fiscal year 1988, of 9,000 voluntary plan terminations.

Issued at Washington, DC, this 21th day of August 1987.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 87–19836 Filed 8–27–87; 8:45 am]

BILLING CODE 7708–01–M

PHYSICIAN PAYMENT REVIEW COMMISSION

Commission and Coding Subcommittee; Public Meetings

AGENCY: Physician Payment Review Commission.

ACTION: Notice of public meetings.

SUMMARY: The Physician Payment Review Commission will hold a public meeting of the full Commission on Thursday, September 10, 1987 from 9:00 a.m. to 5:00 p.m. and on Friday, September 11 from 8:30 a.m. to 12:00 noon. The meeting will be held in the 8th floor Conference Room of the DHHS Hubert Humphrey Building, 200 Independence Avenue SW. The agenda for September 10 will include discussion of the Commission's analysis of geographic variation in physician charges, development of cost of practice indices, and policy options to address geographic variation. The afternoon session on September 10 will be devoted to a background briefing on utilization trends under Medicare Part B, government utilization and medical review programs, and the use of data on medical practice patterns in the development of programs to limit inappropriate service use. The agenda for September 11 will include discussion of Commission plans to test consensus panels in the area of procedure coding, issues related to capitation, and plans for the Commission's March 1988 report to Congress.

The Commission's Subcommittee on Coding also will hold a public meeting on Wednesday, September 9, 1987. The meeting will begin at 8:00 p.m. in the Concord Room of the Hyatt Regency Hotel, 400 New Jersey Avenue NW. The Commission was established by section 9305 of Pub. L. 99–272.

ADDRESS: The Commission is located at Suite 510, 2120 L Street NW., Washington, DC. The telephone number is 202/653–7220.

FOR FURTHER INFORMATION CONTACT: Lauren LeRoy, Deputy Director, 202/653–7220.

Paul B. Ginsburg,

Executive Director.

[FR Doc. 87–19766 Filed 8–27–87; 8:45 am]

BILLING CODE 6820–SE–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–15946; 812–6518]

Hidden Strength Funds Application; et al.

August 21, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for approval under the Investment Company Act of 1940 ("1940 Act") of certain offers of exchange.

Applicants: Hidden Strength Funds ("Trust") and Global Capital Investors Corporation ("Global") (Trust and Global together, "Applicants").

Summary of Application: Applicants seek an order approving certain exchange offers to be made between existing series of the Trust, or which may be made between future such series, or future investment companies distributed by Global, on a basis other than the relative net asset values of the shares to be exchanged.

Relevant 1940 Act Sections: Approval of exchange offers requested under section 11(a).

Filing Dates: The application was filed on October 31, 1986, and amended on April 23, 1987, and June 12, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on September 10, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 1270 Avenue of the Americas, 9th Floor, Rockefeller Center, New York, NY 10020. Attention: Paul T. Summer.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Carson G. Frailey, (202) 272-3015, or Special Counsel Karen L. Skidmore (202) 272-3023 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier, which can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. The Trust is a Massachusetts business trust registered under the 1940 Act as an open-end, diversified, management investment company. The Trust currently consists of five series: the Money Market Portfolio ("Money Market"), the Growth Portfolio, the Quality Income Portfolio, the Total Return Portfolio and the U.S. Government High Yield Portfolio (the "Load Funds"). In view of the nature of the proposed transactions, Applicants have requested that any order issued by the Commission also extend to future series of the Trust, and to other investment companies ("Additional Funds") for which Global may in the future serve as distributor, provided that the shares of such Additional Funds are subject to exchange offers, and have the load characteristics, described herein.

2. The principal underwriter for the Trust is Global, which is a wholly-owned subsidiary of Southmark Corporation. Southmark Corporation owns 50% of Sass Southmark Investment Corporation, the registered investment adviser to the Trust.

3. Global maintains a continuous public offering of shares of Money Market at their current net asset value without a sales charge, and a continuous public offering of shares of the Load Funds at their respective current net asset values, plus a maximum sales charge of 4.75% of the public offering price (4.99% of the net amount invested). As set forth in the Trust's prospectus, this sales charge is subject to reductions in accordance with the size and type of the investment. Such reductions in the sales charge are made in accordance with the conditions of Rule 22d-1 promulgated under the 1940 Act.

4. Under the Trust's exchange program, shares of a Load Fund (including shares acquired through reinvestment of dividends and capital gain distributions) may be exchanged for shares of any other Load Fund at net asset value. Also, shares of any Load Fund may be exchanged for shares of Money Market at net asset value. After the first exchange of shares from a Load Fund to Money Market, the Money Market shares (i.e., those representing the proceeds of the shares originally exchanged, and shares acquired through reinvestment of dividends and capital gain distributions) may be exchanged back into any Load Fund at net asset value, i.e., without a sales charge.

5. Shareholders of the Trust may make four free exchanges per calendar year. Applicants propose to assess a nominal administrative charge of up to $10 for each additional exchange made by a shareholder during any calendar year. Applicants wish to reserve the right to modify the exchange program to impose the administrative fee on all exchanges made by a shareholder during the calendar year if Mellon Financial Services, the Trust's transfer agent, so requests the Trust.

6. Applicants further propose to allow shares of Money Market that were acquired by direct purchase (as well as shares representing reinvestment of dividends or capital gain distributions on the shares purchased) to be exchanged for shares of any Load Fund on the basis of the relative current net asset values of the shares to be exchanged, plus the payment of the sales charge which would be payable if the Load Fund shares were being acquired directly. With respect to these transactions, all applicable provisions for reduced sales charges on purchases of Load Fund shares will be considered in determining the sales charge applicable to the exchange, and these reductions in the sales charge will be made in accordance with the conditions of Rule 22d-1 of the 1940 Act.

7. Dealers and others who distribute the Trust's shares will receive the same commission upon the exchange of shares of Money Market acquired by direct purchase for shares of a Load Fund, as they would for distributing shares of such Load Fund directly; they will not receive a commission for any other exchange transaction. Global acknowledges that the payment of the sales charge to a dealer in the exchange of Money Market shares for shares of a Load Fund may provide sufficient economic incentive for dealers to initiate such exchanges for their own benefit. However, while dealers will be notified of the availability of the exchange program, dealers or other persons involved in the distribution of the Trust's shares will not receive advice from Global as to the suitability of an investment in the Trust, will not actively solicit exchanges, and will not notify investors by telephone of the exchange privilege. Moreover, Global has established adequate internal monitoring and review procedures to insure that such exchanges are made at the request of investors, and not for the dealers' personal gain.

8. Shareholders of the Trust will be notified of the Trust's exchange program, including any administrative fee which may be imposed on exchange transactions, by means of the Trust's prospectus, and by means of other communications, including sales literature and other advertising. Any such communication describing the Trust's exchange program will include notification of any administrative fee related thereto. In the event that Applicants determine no longer to provide the exchange privilege, no notice of the termination will be provided to the shareholders of the Trust, other than in the next subsequent effective prospectus of the Trust.

Applicants' Legal Conclusions

1. The purposes of the proposed administrative fee are to keep the asset base of each series of the Trust stable by discouraging excessive exchanges, and to defray the Trust's administrative expenses incurred in exchange transactions.

2. The purpose of Applicant's proposed exchange program is to permit Trust shareholders who change their investment objectives to exchange, in a simple transaction, their shares in one series of the Funds for those of another on an equitable basis. If, for example, an exchange from Money Market to a Load Fund could be made at relative net asset values, the distribution system of the Load Fund would be disrupted, because an investor could easily avoid the sales charge of the Load Fund by first purchasing Money Market shares and then exchanging those shares for the Load Fund shares, that otherwise would be sold with a sales charge. Applicants believe that the terms of their proposed Money Market exchange offer would avoid this problem, and that it would be equitable to all shareholders and consonant with the practices in effect in virtually all load-fund complexes which also offer "money market", or other types of no-load funds.

Applicants' Conditions

If the requested order is granted, Applicants agree to the following conditions:

1. The administrative fee or any scheduled variation will be uniformly applied to all shareholders participating in the exchange program.

2. Any variations in sales charges on sales of shares of series of the Trust, by means of exchanges or otherwise, will be effectuated in accordance with Rule 22d–1 under the 1940 Act.

3. Applicants will comply with the terms and conditions of proposed Rule 11a–3 under the 1940 Act if and when the proposed rule is adopted.

4. Any future offers of exchange involving any Additional Funds will be subject to the representations and conditions described in this application.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87–19761 Filed 8–27–87; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–16772]

Application and Opportunity for Hearing; Southern Natural Gas Co.

August 25, 1987.

Notice is hereby given that Southern Natural Gas Company (a Delaware corporation) ("Southern") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Manufacturers Hanover Trust Company ("Manufacturers") under the indenture referred to in paragraph 1 below, which has been qualified under the Act, and under the trust indenture referred to in paragraph 2 below, which does not require qualification under the Act, are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers from acting as Trustee under either of such indentures.

Section 310(b) of the Act provides, *inter alia*, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. However, pursuant to clause (ii) of such subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeships under the indentures are not so likely to involve a material conflict of interest as to make it necessary to disqualify such trustee from acting as trustee under any such indentures.

Southern alleges that:

1. On March 20, 1987, Southern filed with the Commission a Registration Statement (File No. 33–12784) and an indenture, to be dated as of June 1, 1987, between Southern and Manufacturers, as Trustee (the "Southern Indenture"), pursuant to which Southern may issue from time to time in one or more series its unsecured debentures, notes or other evidences of indebtedness.

2. Bear Creek Capital Corporation ("Bear Creek Capital"), a Delaware corporation formed and wholly owned by Bear Creek Storage Company ("Bear Creek Storage"), a Louisiana partnership composed of Southern Gas Storage Company, a Delaware corporation and a wholly owned subsidiary of Southern, and Tennessee Storage Company, a Delaware corporation, has entered into a Trust Indenture, dated as of September 15, 1981 (the "Bear Creek Capital Indenture"), with Manufacturers, as Trustee, and T. C. Crane, as Co-Trustee, pursuant to which Bear Creek Capital issued an aggregate principal amount of $135,000,000 of its 9–7/8% Secured Notes, Series A due November 1, 2000 and $30,000,000 of its 14–7/8% Secured Notes, Series B due November 1, 2000 (collectively, the "Notes"). The Bear Creek Capital Indenture was not qualified under the Trust Indenture Act of 1939. The Notes are secured, *inter alia*, by an assignment to the Trustees by Bear Creek Capital of its rights under a Service Agreement, dated June 1, 1981, between Bear Creek Storage and Southern (the "Service Agreement"), assigned by Bear Creek Storage to Bear Creek Capital pursuant to a Pledge and Assignment of Rights Under Service Agreement, dated as of September 15, 1981, between Bear Creek Capital and Bear Creek Storage, consented to by Southern in a Consent and Agreement to Pledge and Assignment, dated as of September 15, 1981, executed by Southern and Tennessee Gas Pipeline Company (the "Consent"). The Consent provides that the obligation of Southern to pay the charges due under the Service Agreement is absolute and unconditional. The obligations of Southern under the Service Agreement and under the Consent are unsecured. Such obligations rank equally and on a par with the obligations of Southern in respect of its Securities under the Southern Indenture.

3. The Southern Indenture contains the provisions required by section 310(b) of the Act.

Southern has waived notice of hearing, and waives hearing, in connection with the matter referred to herein.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, File No. 22–17146, which is a public document on file in the offices of the Commission at the Public Reference Room, Judiciary Plaza, 450 Fifth Street, NW., Washington, DC.

Notice is further given that any interested person may, not later than September 11, 1987, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–19827 Filed 8–27–87; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 87–17]

Senior Executive Service Performance Review Boards (PRB); Membership

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: DOT publishes the names of the persons selected to serve on the various Departmental Performance Review Boards (PRB) established by DOT under the Civil Service Reform Act (CSRA).

FOR FURTHER INFORMATION CONTACT: Diana L. Zeidel, Director of Personnel,

and Executive Secretary, DOT Executive Resources Board, (202) 366–4088.

SUPPLEMENTARY INFORMATION: The CSRA of 1978, which created the Senior Executive Service, requires that each agency implement a performance appraisal system making senior executives accountable for organizational and individual goal accomplishment. As part of this system, CSRA requires each agency to establish one or more PRBs, the function of which is to review and evaluate the initial appraisal of a senior executive's performance by the supervisor and to make recommendations to the final rating authority relative to the performance of the senior executive.

The persons named below have been selected to serve on one or more Departmental PRBs.

Issued in Washington, DC, on August 24, 1987.

Jon H. Seymour,

Assistant Secretary for Administration.

Department of Transportation, Senior Executive Service, Performance Review Boards

Office of the Secretary

Barclay W. Webber
Assistant General Counsel for Environmental, Civil Rights and General Law
Diane R. Liff
Assistant General Counsel for Litigation
Samuel Podberesky
Assistant General Counsel for Aviation Enforcement and Proceedings
William H. FitzGerald, Jr.
Director, Office of Budget
Glenda M. Tate
Director, Office of Management Planning
Patrick V. Murphy
Director, Special Programs Staff
Vance Fort
Deputy Assistant Secretary for Policy and Program Development
John V. Coleman
Director, Office of Aviation Analysis
Erika Z. Jones
Chief Counsel, National Highway Traffic Safety Administration
Gregory S. Dole
Chief Counsel, Maritime Administration

Office of the Inspector General

Paul A. Adams
Inspector General, Department of Housing and Urban Development
John C. Layton
Inspector General, Department of Energy
Jack Kroll
Assistant Inspector General for Policy, Planning, and Resources, Veterans Administration
Raymond F. Randolph
Assistant Inspector General for Audit, Small Business Administration
Richard D. Morgan
Executive Director, Federal Highway Administration
Marshall Jacks, Jr.
Associate Administrator for Safety and Operations, Federal Highway Administration
Rosalind A. Knapp
Deputy General Counsel, Office of the Secretary
Don H. Clausen
Special Assistant to the Administrator, Federal Aviation Administration
William H. FitzGerald, Jr.
Director, Office of Budget, Office of the Secretary
Elaine L. Chao
Deputy Administrator, Maritime Administration

Urban Mass Transportation Administration

Amparo B. Bouchey
Director, Office of Small and Disadvantaged Business Utilization, Office of the Secretary
Edward V. Curran
Director, Office of Personnel and Technical Training, Federal Aviation Administration
William T. Hudson
Director, Office of Civil Rights, Office of the Secretary
Rosalind A. Knapp
Deputy General Counsel, Office of the Secretary
Marilyn S. Marton
Deputy Director, Office of Personnel, Office of the Secretary
Philip Olekszyk
Deputy Associate Administrator for Safety, Federal Railroad Administration
Hugh T. O'Reilly
Deputy Chief Counsel, Federal Highway Administration

United States Coast Guard

RADM T. T. Matteson
Chief, Office of Personnel
JoAnn C. Collins
Coordinator of Minority Affairs, Office of the Secretary
Rosalind A. Knapp
Deputy General Counsel, Office of the Secretary
Leon C. Watkins
Director, Office of Civil Rights, Federal Aviation Administration
Erika Z. Jones
Chief Counsel, National Highway Traffic Safety Administration
Michael M. Finkelstein
Associate Administrator for Research and Development, National Highway Traffic Safety Administration
Rex C. Leathers
Associate Administrator for Engineering and Program Development, Federal Highway Administration
C. Shannon Roberts
Deputy Director, Office of Management Planning, Office of the Secretary

Research and Special Programs Administration

George Tenley
Chief Counsel
Louis W. Roberts
Director, Transportation Systems Center
Richard R. John
Deputy Director, Transportation Systems Center
Melissa J. Allen
Deputy Assistant Secretary for Administration, Office of the Secretary
Michael M. Finkelstein
Associate Administrator for Research and Development, National Highway Traffic Safety Administration
Robert L. Krick
Director, Office of Research and Development, Federal Railroad Administration
Robert R. Collins
Special Assistant to the Administrator, Federal Railroad Administration

Maritime Administration

Reginald A. Bourdon
Associate Administrator for Policy and International Affairs
Richard E. Bowman
Associate Administrator for Maritime Aids
Gregory S. Dole
Chief Counsel
Earnest Hawkins
Associate Administrator for Administration
Gary S. Misch
Associate Administrator for Marketing and Domestic Enterprise
JoAnn C. Collins
Coordinator of Minority Affairs, Office of the Secretary
William T. Hudson
Director, Office of Civil Rights, Office of the Secretary
Joseph A. LaSala
Chief Counsel, Urban Mass Transportation Administration

National Highway Traffic Safety Administration

Howard M. Smolkin
Managing Director
Erika Z. Jones
Chief Counsel
Barry I. Felrice
Associate Administrator for Rulemaking
George Parker
Associate Administrator for Enforcement
Carolina L. Mederos
Director, Office of Programs and Evaluation, Office of the Secretary
Matthew Wirgau
Special Assistant to the Deputy Secretary, Office of the Secretary

Federal Highway Administration

Rex C. Leathers
Associate Administrator for Engineering and Program Development
Richard P. Landis
Associate Administrator for Motor Carriers
Daniel Markoff
Associate Administrator for Administration
David K. Phillips
Associate Administrator for Research, Development and Technology
George R. Turner, Jr.
Regional Administrator, Region 3
Marshall Jacks, Jr.
Associate Administrator for Safety and Operations
Wesley S. Mendenhall, Jr.
Regional Administrator, Region 6
Shirley J. Ybarra
Special Assistant, Office of the Secretary
Melissa J. Allen
Deputy Assistant Secretary for Administration, Office of the Secretary
Carolina L. Mederos
Director, Office of Programs and Evaluation, Office of the Secretary

Federal Aviation Administration

Wayne J. Barlow
Director, Northwest Mountain Region
Albert W. Blackburn
Associate Administrator for Policy and International Aviation
Paul K. Bohr
Director, Central Region
Anthony J. Broderick, Jr.
Associate Administrator for Aviation Standards
Garland P. Castleberry
Director, Southern Region
Franklin L. Cunningham
Director, Alaskan Region
Joseph M. Del Balzo
Director, Eastern Region
Robert L. Donahue
Associate Administrator for Airports
E. Tazewell Ellett
Chief Counsel
Brooks C. Goldman
Associate Administrator for Administration
Edwin S. Harris, Jr.
Associate Administrator for Development and Logistics
Homer C. McClure
Director, Western-Pacific Region
Dale E. McDaniel
Deputy Associate Administrator for Policy and International Aviation
Clarence R. Melugin, Jr.
Director, Southwest Region
William H. Pollard
Director, Great Lakes Region
Byron K. Potts
Associate Administrator for Air Traffic
James E. Richardson, Jr.
Director, Aeronautical Center
Leon C. Watkins
Director, Office of Civil Rights
Charles E. Weithoner
Associate Administrator for Human Resources
Robert E. Whittington
Director, New England Region
Arlene Feldman
Deputy Director, Western-Pacific Region
JoAnn C. Collins
Coordinator of Minority Affairs, Office of the Secretary
Carolina L. Mederos
Director, Office of Programs and Evaluation, Office of the Secretary
Melinda Sidak
Special Counsel to the Secretary, Office of the Secretary

Federal Railroad Administration

Joseph W. Walsh
Associate Administrator for Safety
Raymond J. Rogers
Associate Administrator for Administration
Philip Olekszyk
Deputy Associate Administrator for Safety
Rosalind A. Knapp
Deputy General Counsel, Office of the Secretary
Earnest Hawkins
Associate Administrator for Administration, Maritime Administration
Jeffrey R. Miller
Deputy Administrator, National Highway Traffic Safety Administration.

[FR Doc. 87-19839 Filed 8-27-87; 8:45 am]
BILLING CODE 4910-62-M

Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending August 21, 1987

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45101

Date filed: August 18, 1987.

Due date for answers, conforming applications, or motion to modify scope: September 15, 1987.

Description: Application of Milam International, Inc. d/b/a International Jet Airlines, pursuant to section 401(d)(3) of the Act and Subpart Q of the Regulations requests authority to engage in interstate and overseas charter air transportation of persons, property, and mail: Between any point in any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States.

Docket No. 45102

Date filed: August 18, 1987.

Due date for answers, conforming applications, or motions to modify scope: September 15, 1987.

Description: Application of Milam International, Inc. d/b/a International Jet Airlines, pursuant to section 401(d)(3) of the Act and Subpart Q of the Regulations requests authority to engage in foreign charter air transportation of persons, property, and mail.

Docket No. 45103

Date filed: August 19, 1987.

Due date for answers, conforming applications, or motions to modify scope: September 16, 1987.

Description: Application of United Air Lines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity in order to provide scheduled non-stop foreign air transportation of persons, property, and

mail between Denver, Colorado, and Vancouver, British Columbia, Canada.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87-19838 Filed 8-27-87; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

Technical Hazardous-Liquid Pipeline Safety Standards Committee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1), notice is hereby given of a meeting of the Technical Hazardous-Liquid Pipeline Safety Standards Committee on September 24, 1987, at 9:00 a.m., in Room 4234, Nassif Building, 400 Seventh Street, SW., Washington, DC, 20590.

The primary purpose for the meeting is to discuss and develop a report on the technical feasibility, reasonableness, and practicability of the following proposed amendment to the safety standards:

1. Reporting Unsafe Conditions on Gas and Hazardous Liquid Pipelines and Liquefied Natural Gas Facilities.

The Committee also will discuss the following rulemaking issues:

1. Should the gas pipeline damage prevention program standards be applied to hazardous liquid pipelines?

2. Should product pipelines be required to meet hydrostatic test requirements applicable to highly volatile liquid pipelines?

3. Should breakout tank inspections include checks for leaks, particularly leakage from tank bottoms? What technology is available to check for leaks?

4. To what extent are the hazardous liquid pipeline safety standards appropriate for carbon dioxide pipelines? Should any additional standards be adopted?

Attendance is open to the public, but limited to the space available. With approval of the chair of the Committee, members of the public may present oral statements on any items scheduled for discussion. Due to the limited time available, each person who wants to make an oral statement is requested to notify Rebecca Key, Room 8417, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, telephone 202-366-2392, of the topics to be addressed and the time requested to address each topic. The chair may deny any request to present an oral statement and may limnit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

Dated: August 25, 1987.

Cesar De Leon,

Assistant Director for Regulation, Office of Pipeline Safety.

[FR Doc. 87-19841 Filed 8-27-87; 8:45 am]

BILLING CODE 4910-60-M

Technical Pipeline Safety Standards Committee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1), notice is hereby given of a meeting of the Technical Pipeline Safety Standards Committee on September 22, 1987, at 9:00 a.m. in Room 4234, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

The primary purpose of the meeting is to discuss and develop a report on the technical feasibility, reasonableness, and practicability of the following proposed amendments to safety standards:

1. Reporting Unsafe Conditions on Gas and Hazardous Liquid Pipelines and Liquefied Natural Gas Facilities.

2. Definition of Gas Gathering Line.

3. Confirmation or Revision of Maximum Allowable Operating Pressure; Alternative Method.

4. Exception from Pressure Testing Non-welded Tie-in Joints.

5. Transportation of Gas by Pipeline; Miscellaneous Amendments.

The Committee also will discuss the following rulemaking projects:

1. Deletion of Standards Incorporated by Reference.

2. Operation and Maintenance Procedures for Gas Pipelines.

3. Elimination of "Grandfathered" Operating Pressures that Exceed the Level Allowed for New Pipelines in Class 1 Locations.

Attendance is open to the public, but limited to the space available. With approval of the chair of the Committee, members of the public may present oral statements on any items scheduled for discussion. Due to the limited time available, each person who wants to make an oral statement is requested to notify Rebecca Key, Room 8417, Nassif Building, 400 Seventh Street, SW. Washington, DC 20590, telephone 202-366-2392, of the topics to be addressed and the time requested to address each topic. The chair may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

Dated: August 25, 1987.

Cesar De Leon,

Assistant Director for Regulation Office of Pipeline Safety.

[FR Doc. 87-19842 Filed 8-27-87; 8:45 am]

BILLING CODE 4910-60-M

Technical Pipeline Safety Standards Committee/Technical Hazardous Liquid Pipeline Safety Standards Committee Joint Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub.L. 92-463, 5 U.S.C. App. 1), notice is hereby given of a joint meeting of the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee on September 23, 1987, at 9:00 a.m. in Room 4234 Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

The purpose of the meeting is to obtain the joint Committee's review of and comments on the results of two advance notices of proposed rulemaking: Proposals for Pipeline Safety (PS-93) and Pipeline Operator Qualifications (PS-94).

Attendance is open to the public, but limited to the space available. With approval of the Executive Director of the Committees, members of the public may present oral statements on the subjects. Due to the limited time available, each person who wants to make an oral statement is requested to notify Rebecca Key, Room 8417, Nassif Building, 400 Seventh Street SW., Washington, DC 20590, telephone 202-366-2392, of the topics to be addressed and the time requested to address each topic. The presiding officer may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

Dated: August 25, 1987.

Cesar De Leon,

Assistant Director for Regulation Office of Pipeline Safety.

[FR Doc. 87-19843 Filed 8-28-87; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: August 24, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to

OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: 7018–C
Type of Review: New Collection
Title: Order Blank for Forms

Description: Form 7018–C allows taxpayers who must file information returns a systematic way to order information tax forms materials.

Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 25,000 hours
OMB Number: 1545–0894
Form Number: Publication 1030
Type of Review: Extension
Title: IRS Film Brochure

Description: This brochure describes the various informational and educational films and videotapes that are available for loan without charge to interested organizations. It also contains an order form for these groups to request the materials from their local IRS offices.

Respondents: Individuals or households, Non-profit institutions, Small businesses or organizations
Estimated Burden: 2,000 hours
OMB Number: 1545–0938
Form Number: 1120–IC–DISC, Schedule K and Schedule P
Type of Review: Revision
Title: Interest Charge Domestic International Sales Corporation Return—1987, and its Related Schedules K and P

Description: U.S. Corporations that have elected to be an interest charge domestic international sales corporation (IC–DISC) file Form 1120–IC–DISC to report their income and reductions. The IC–DISC is not taxed but IC–DISC shareholders are taxed on their share of IC–DISC income. IRS uses Form 1120–IC–DISC to check the IC–DISC's computation of income. Schedule P (Form 1120–IC–DISC) is used by the IC–DISC to report its dealings with related suppliers, etc. Schedule K (Form 1120–IC–DISC) is used to report income to shareholders.

Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 85,162 hours

Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,
Departmental Reports Management Officer.

[FR Doc. 87–19757 Filed 8–27–87; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

Date: August 25, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Financial Management Service

OMB Number: 1510–0008.
Form Number: None.
Type of Review: Extension.
Title: Pools and Associations—Annual Letter.

Description: The information is collected for the determination of an acceptable percentage for each Pool and Association to allow Treasury certified companies credit on their Schedule F for authorized ceded reinsurance in determining the companies' underwriting limitations.

Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Burden: 89 hours.

OMB Number: 1510–0012.
Form Number: TFS Form 6314.
Type of Review: Extension.
Title: Schedule F.

Description: Information is used to compute amount of unauthorized reinsurance in determining Treasury Certified companies' underwriting limitations to be published in Treasury Circular 570 for use by Federal bond approving officers.

Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Burden: 14,912 hours.

Clearance Officer: Douglas C. Lewis (202) 436–5300, Financial Management Service, Room 100, 3700 East West Highway, Hyattsville, MD 20782.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,
Departmental Reports Management Officer.

[FR Doc. 87–19797 Filed 8–27–87; 8:45 am]
BILLING CODE 4810–25–M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.
ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department of staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Elaina Norden, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Officer on or before October 27, 1987.

Dated: August 24, 1987.

By direction of the Administrator.

David A. Cox,
Associate Deputy Administrator for Management.

Extension

1. Department of Veterans Benefits
2. Request for Determination of Loan Guaranty Eligibility—Unmarried Surviving Spouses
3. VA Form 26–1817

4. This information is needed to determine unmarried surviving spouses' eligibility for VA home loan benefits.
5. On occasion
6. Individuals or households
7. 900 responses
8. 225 hours
9. Not applicable

1. Department of Veterans Benefits
2. Request to Creditor Regarding Applicant's Indebtedness
3. VA Form Letter 26–250
4. This information is used to obtain credit data from landlords and other creditors of veteran-applicants for guaranteed and direct loans, prospective purchasers of VA-acquired properties, and prospective assumers of loans in release of liability and substitution of entitlement cases.
5. On occasion
6. Individual or households; Businesses or other for-profit; and Small businesses or organizations
7. 32,000 responses
8. 5,333 hours
9. Not applicable

1. Department of Veterans Benefits
2. Request for Determination of Reasonable Value (Used Manufactured Home)
3. VA Form 26–8728
4. This information is obtained from buyers, owners/sellers, and manufactured home dealers to obtain an appraisal to establish the reasonable value of such units proposed for guaranteed financing.
5. On occasion
6. Individuals or households; Businesses or other for-profit; and Small businesses or organizations
7. 4,800 responses
8. 800 hours
9. Not applicable

[FR Doc. 87–19779 Filed 8–27–87; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 167
Friday, August 28, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (Eastern time) Tuesday, September 8, 1987.

PLACE: Clarence M. Mitchell, Jr., Conference Room, No. 200–C on the Second Floor of the Columbia Plaza Building, 2401 E Street, NW., Washington, DC 20507.

STATUS: Part of the Meeting will be Open to the Public and Part will be Closed to the Public.

MATTERS TO BE CONSIDERED:

Open

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Proposed Pension Rulemaking under section 4(f)(2) of the Age Discrimination in Employment Act
4. Proposed section 629 of Volume II of EEOC's Compliance Manual, Institutions of Higher Education

Closed

Litigation Authorizations: General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions.

Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer on (202) 634–6748.

Date: August 26, 1987.

Johnnie L. Johnson, Jr.,

Attorney Advisor, Executive Secretariat.

This Notice Issued August 26, 1987.

[FR Doc. 87–19887 Filed 8–26–87; 11:42 am]

BILLING CODE 6750–06–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, September 1, 1987, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of Minutes of Previous Meetings:

Application For Consent To Purchase Assets and Assume Liabilities:

The Suffolk County National Bank of Riverhead, Riverhead, New York, for consent to purchase certain assets of and assume the liability to pay deposits made in the 10900 Main Road at Bay Avenue, Mattituck, New York, branch of First Nationwide Bank, A Federal Savings Bank, San Francisco, California.

Application For Consent To Purchase Assets and Assume Liabilities and Establish One Branch:

The Farmers' Bank of Willards, Willards, Maryland, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Salisbury, Maryland, branch of Augusta Savings and Loan Association, Baltimore, Maryland, a non-FDIC-insured institution, and for consent to establish that branch as a branch of The Farmers' Bank of Willards.

Application For Consent To Merge and Establish Seven Branches:

Citizens Bank & Trust Company, Thibodaux, Louisiana, an insured State nonmember bank, for consent to merge, under its charter and title, with Lafourche National Bank of Thibodaux, Thibodaux, Louisiana, and for consent to establish the seven offices of Lafourche National Bank of Thibodaux as branches of the resultant bank.

Recommendation Regarding The Liquidation of a Bank's Assets Acquired By The Corporation in its Capacity as Receiver, Liquidator, or Liquidating Agent of Those Assets:

Case No. 47,074
The Bowery Savings Bank, New York City (Manhattan), New York

Memorandum and Resolution re: Final amendment to Part 346 of the Corporation's rules and regulations, entitled "Foreign Banks," which amendment permits FDIC-insured branches of foreign banks to pledge obligations of the African Development Bank as collateral to meet FDIC deposit insurance requirements.

Memorandum and Resolution re:

(1) Final Amendments to Part 310 of the Corporation's rules and regulations, entitled "Safeguarding Personal Information in Federal Deposit Insurance Corporation Records," which would (a) retitle the heading of Part 310 to read "Privacy Act Regulations" in order to provide a better description of the contents of that part, (b) delegate to the FDIC's General Counsel authority to make final determinations with respect to an appeal of a system manager's denial of an individual's request for access to or amendment of a record pertaining to the individual requester, and (c) delete the Legal Compliance and Enforcement System of Records from the list of systems of records exempt by regulation from certain provisions of the Privacy Act;

(2) Establishment of the Telephone Call Detail System of Records, pursuant to the Privacy Act of 1974, which system of records relates to individuals assigned telephone numbers by the FDIC, including current and former FDIC employees, and other individuals provided telephone services by the FDIC, who make long distance and local calls placed from FDIC telephones;

(3) Amendment to the Consumer Complaint and Inquiry System of Records which would reflect certain nonsubstantive administrative changes to that system of records; and

(4) Withdrawal of the Legal Compliance and Enforcement System of Records which has become obsolete and no longer exists.

Reports of the actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum re: Petition requesting the Corporation to issue a regulation establishing criteria for determining when a bank being considered for open bank assistance under section 13(c) of the Federal Deposit Insurance Act has met the "essentiality test" of that statute.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 — 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: August 25, 1987.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-19898 Filed 8-26-87; 12:06 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, September 1, 1987, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Recommendation regarding the Corporation's assistance agreement with an insured bank.

Discussion Agenda:

Personnel Actions Regarding Appointments, Promotions, Administrative Pay Increases, Reassignments, Retirements, Separations, Removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Matters Relating To The Possible Closing of Certain Insured Banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) (c)(9)(A)(ii), and (c)(9)(B)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: August 25, 1987

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-19899 Filed 8-26-87; 12:06 pm]

BILLING CODE 6714-01-M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 2:00 p.m., Tuesday, August 25, 1987.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW.

STATUS: Closed to public observation pursuant to 5 U.S.C. section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, DC 20570, Telephone: (202) 254-9430.

Dated, Washington, DC, August 25, 1987.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 87-19878 Filed 8-26-87; 11:10 am]

BILLING CODE 7545-01-M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: [52 FR 31475 August 20, 1987]

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Monday, August 17, 1987.

CHANGE IN THE MEETING: Additional meeting.

The following item will be considered at a closed meeting for Thursday, August 27, 1987, following the 10:00 a.m. open meeting.

Consideration of amicus participation.

Commissioner Peters, as duty officer, determined that Commission business required the above change.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact; Judith Axe at (202) 272-2092.

Jonathan G. Katz,

Secretary.

August 25, 1987.

[FR Doc. 87-19941 Filed 8-26-87; 3:12 pm]

BILLING CODE 8010-01-M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 55b(e)(3)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board). The regular meeting of the Board is scheduled for September 1, 1987.

DATE AND TIME: The meeting is scheduled to be held at the offices of the Farm Credit Administration in McLean, Virginia, on September 1, 1987, from 10:00 a.m. until such time as the Board may conclude its business.

FOR FURTHER INFORMATION CONTACT: Elizabeth Kirby, Acting Secretary to the Farm Credit Administration Board, 1501 Farm Credit Drive, McLean, Virginia 2210-5090 (703-883-4010).

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of the meeting will be closed to the public. The matters to be considered at the meeting are:

1. Summary Prior Approval Items
2. Final Regulations:
   Part 611—Director Compensation
3. Examination, Supervision and Enforcement Matters.[1]

Dated: August 26, 1987.

Elizabeth Kirby,

Acting Secretary, Farm Credit Administration.

[FR Doc. 87-19901 Filed 8-26-87; 8:45 am]

BILLING CODE 6705-01-M

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[1] Session closed to the public-exempt pursuant to 5 U.S.C. 552b(c) (4), (8) and (9).

Corrections

Federal Register
Vol. 52, No. 167
Friday, August 28, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 86C-0495]

Mica; Addition of Listing for Use in Dentifrices That are Drugs as Well as Cosmetics; Change in Specification for Fineness

Correction

In rule document 87-18206 beginning on page 29664 in the issue of Tuesday, August 11, 1987, make the following correction:

On page 29664, in the second column, under **SUPPLEMENTARY INFORMATION**, in the ninth line, the formula should read "$(K_2Al_4(Al_2Si_6O_{20})(OH)_4$".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-07-4212-11; N-43030]

Realty Action; Lease/Purchase for Recreation and Public Purposes, Clark County, NV

Correction

In notice document 87-8709 appearing on page 12618 in the issue of Friday, April 17, 1987, make the following correction:

In the first column, under "T. 19 S., R. 60 E.," in the first line, insert "NE¼", at the end of the line.

BILLING CODE 1505-01-D

federal register

Friday
August 28, 1987

Part II

Department of Transportation

Federal Highway Administration
Urban Mass Transportation Administration

23 CFR Parts 635, 640, 650, 712, 771, and 790

49 CFR Part 622

Environmental Impact and Related Procedures; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Urban Mass Transportation Administration

23 CFR Parts 635, 640, 650, 712, 771, and 790

49 CFR Part 622

[FHWA Docket Nos. 85-12 and 83-20]

Environmental Impact and Related Procedures

AGENCIES: Federal Highway Administration (FHWA) and Urban Mass Transportation Administration (UMTA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: The FHWA and the UMTA are issuing a joint final regulation governing the preparation of environmental impact statements (EISs) and related documents under grant programs administered by FHWA and UMTA. The amendments contained in this final rule will streamline the project-development process and provide increased decisionmaking authority to agency field offices. The amendments are consistent with the directives of the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) regulations, and other Federal statutes and incorporate the requirements of DOT Order 5610.1C, "Procedures for Considering Environmental Impacts." The documents and actions to which this regulation applies are described more fully in § 771.109 of the regulation. By this final rule, the FHWA is also eliminating duplication in its public involvement regulations by rescinding 23 Code of Federal Regulations (CFR) Part 790 and amending a section of 23 CFR Part 771 to make it the agency's single public involvement regulation. This action will contribute to the establishment of a streamlined, one-stop environmental process in which public involvement is fully integrated with the other project development and environmental procedures.

EFFECTIVE DATES: The amendments to 23 CFR Parts 640, 712 (see the amendatory instruction number 4), and 771 are effective on November 27, 1987. The amendment to Subpart A of Part 622 of 49 CFR is effective on November 27, 1987. The amendments to 23 CFR Parts 635, 650, 712 (see the amendatory instruction number 8), and 790 are effective August 29, 1988, in order to allow States which conduct public hearings under Part 790 to adopt public involvement/public hearing procedures that satisfy the requirements of Part 771.

ADDRESSES: Copies of comments received, together with the regulatory evaluation required by DOT policies and procedures, are available for public inspection in the public docket room of FHWA, Room 4205, HCC-10, 400 Seventh Street SW., Washington, DC 20590, between the hours of 8:30 a.m. and 3:30 p.m. EST, Monday through Friday. These materials are filed under FHWA Docket Nos. 83-20 and 85-12.

FOR FURTHER INFORMATION CONTACT: (1) For FHWA: Mr. Frederick Skaer, Office of Environmental Policy (HEV-10), (202) 366-0106, or Mr. Edward Kussy, Office of the Chief Counsel (HCC-40), (202) 366-0791, FHWA, 400 Seventh Street SW., Washington, DC 20590, between the hours of 7:45 a.m. and 4:15 p.m., EST, Monday through Friday; (2) For UMTA: Mr. A. Joseph Ossi, Office of Planning Assistance (UGM-22), (202) 366-0096, or Mr. Scott A. Biehl, Office of the Chief Counsel (UCC-5), (202) 366-4063, UMTA, 400 Seventh Street SW., Washington, DC 20590, between the hours of 8:30 a.m. and 5:00 p.m., EST, Monday through Friday.

SUPPLEMENTARY INFORMATION: The regulation being issued today applies to both FHWA and UMTA actions. Thus, it will amend Part 771 of Title 23 of the CFR with a cross reference at Part 622 of Title 49 of the CFR.

Introduction

This final rule amends the regulations utilized by FHWA and UMTA to comply with the CEQ's regulations and other environmental requirements. The FHWA and the UMTA first published regulations implementing CEQ requirements in 1980. (See 45 FR 71968; October 30, 1980.) On August 1, 1983, FHWA and UMTA published changes to their joint environmental regulation (48 FR 34894) as a part of the departmental effort to streamline regulations and reduce red tape. In response to that Notice of Proposed Rulemaking (NPRM), Docket 83-20, 51 comments were received from various Federal, State, and local agencies. Twenty-six of these comments were from State highway agencies (SHAs) or State DOTs. Eleven comments were received from transit or planning agencies. Seven comments were received from interested cities or counties. Two comments were received from State Historic Preservation Officers (SHPOs). The National Trust for Historic Preservation provided comments as did the following Federal agencies: The Environmental Protection Agency, the Department of the Interior, the Advisory Council on Historic Preservation, and the U.S. Coast Guard. On January 31, 1985, the FHWA published another NPRM to rescind 23 CFR 790 and to amend 23 CFR 771.111(h). (See 50 FR 4526, Docket No. 85-12). This final notice combines both rulemakings. Comments on Docket No. 85-12 are discussed below as the last item under the heading "Section-by-Section Analysis."

General Comments

The majority of comments received in Docket No. 83-20 were generally supportive of the streamling proposals made in the NPRM. This is especially true of the greater flexibility built into the categorical exclusion (CE) process. Many of the comments requested more flexibility, but, as will be discussed below, we were unable to make major changes given current statutory constraints. Another major source of comments was a proposal in the NPRM to require written reevaluations before each major project step. Substantial changes to that proposal have been made here. These are addressed in greater detail below.

It should be noted that most sections of the regulation have been renumbered from the NPRM, although the section headings have been retained. Section 771.127 of the NPRM has been subdivided into two sections (771.129, Reevaluations, and 771.130, Supplemental Environmental Impact Statements).

As with the 1980 regulation, this regulation has been approved by the Office of the Secretary of Transportation as being consistent with DOT Order 5610.1C. Applicants and Administration field offices should not normally need to consult DOT Order 5610.1C.

There were a number of editorial changes made throughout the document to make it more readable. Only the major changes made to each section of the regulation are discussed in this preamble.

Section-by-Section Analysis

Section 771.101. Purpose. This section has been amended to include a reference to 23 U.S.C. 128. Section 128 contains the FHWA public hearing requirements and describes the environmental report needed as a part of the public hearing requirements.

Section 771.105. Policy. This section sets forth basic Administration policy regarding the consideration of environmental impacts of Administration actions. Sections 109 and 128 of Title 23 and sections 3, 5, and

14 of the Urban Mass Transportation Act (UMT Act), 49 U.S.C. 1602, 1604, and 1610 require both FHWA and UMTA to consider social, economic, and environmental impacts of proposed projects. The documentation developed pursuant to this regulation is intended to satisfy both NEPA and the above sections.

It is the policy of FHWA and UMTA to make the process set forth in the regulation the primary vehicle for all environmental approvals of Administration actions by all Federal agencies. This can only be accomplished if both applicants and Federal agencies are committed to the development of procedures and cooperative arrangements which take advantage of the opportunities presented here to create as complete an environmental record as possible.

Administration policy on the funding of efforts to mitigate the impacts of Administration actions remains the same. The intent is that Federal funds be available to assist in complying with Federal requirements, as well as State and local requirements which do not conflict with Federal requirements. However, in those situations where State or local requirements differ from Federal requirements, the decision to use Federal funds will be made on a case-by-case basic, after considering the reasonableness of the applicant's request and the costs and benefits of Federal participation in the request.

Several commenters questioned the "status" of FHWA's Technical Advisory T6640.8 and requested clarification. The Technical Advisory was developed by FHWA for the purpose of providing the best available guidance to its field offices and applicants regarding the types of information needed to comply with NEPA, section 4(f) of the DOT Act of 1966, and other environmental requirements, such as Executive Order 11990, "Protection of Wetlands." The Technical Advisory is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. The FHWA expects the Technical Advisory to be used to the fullest extent possible. However, FHWA also recognizes that each project must be evaluated on its individual issues and merits. When circumstances dictate, there is sufficient flexibility to tailor the content of the environmental document to the needs of the individual situation. A revised Technical Advisory has been prepared and will be issued as T6640.8A on October 30, 1987.

The UMTA also has developed supplementary guidance on the NEPA process for applicants. UMTA Circular C5620.1, "Guidelines for the Environmental Protection Process", provides information on the assessment of environmental impacts for major transit projects, and the preparation and processing of environmental documents. This circular is available from UMTA Headquarters and field offices.

Section 771.107. Definitions. In the 1980 regulation, the term "action" was defined as the Federal approval of construction of highway and transit projects. The CEQ regulations use the term "proposed action" in a broader context. There, actions include projects and programs that are proposed for Federal assistance as well as proposed plans, policies, and legislation. For consistency with the CEQ regulations, a new definition for "action" has been added. As used throughout the regulation, actions are highway or transit projects proposed for Federal funding or activities such as joint and multiple use permits which require Federal approvals. The actual Federal approval of the construction of a highway or transit project or of a permit is now covered in the new definition of "Administration action." The difference between an "action" and an "Administration action" as defined under the regulation is the difference between a proposed project and an actual Federal commitment to fund construction of the project.

The DOT Act of 1966 included specific provisions providing special protection to publicly owned parks, recreational areas, wildlife and waterfowl refuges, and all historic sites. This provision was set forth at section 4(f) of the DOT Act, and printed in the United States Code (U.S.C.) at 49 U.S.C. 1653(f). A similar provision is found at 23 U.S.C. 138. In 1983, as part of a general codification of the DOT Act, 49 U.S.C., 1653(f), was formally repealed and recodified with slightly different language in 49 U.S.C. 303. However, the substantive requirements remain unchanged. Given that over the years, the whole body of provisions, policies, case law, etc., has been collectively referenced as "section 4(f)" matters, we have continued this reference in this regulation, even though section 4(f) of the 1966 DOT Act has been technically amended. To change the popular reference to "section 4(f)" would confuse needlessly the public and the Federal, State, and local agencies that participate in "section 4(f)" matters on a recurring basis.

The only other changes to this section were minor editorial changes to make it more readable.

Section 771.109. Applicability and responsibilities. This section deals with the documents and actions to which this regulation applies, the status of prior approvals, and the responsibilities of both the Administration and grant applicants for the preparation of the documents required by this regulation.

Paragraph (b) deals with the responsibility for carrying out mitigation measures that have been described in the Administration's environmental documents. One commenter suggested that language be added to the regulation to specify that the Administration monitor projects during and after construction to ensure that mitigation measures that have been described in the Administration's environmental documents are implemented. The Administration meets its responsibility set forth in paragraph 1505.2(c) of the CEQ regulations (40 CFR Parts 1500–1508), and the regulation has been modified to make this clear. Paragraph (b) now states that mitigation measures will be incorporated by reference in the grant document and UMTA will follow up with reviews of designs and on-site inspections to ensure that mitigation measures are implemented as called for in environmental documents and grant agreements. It should be noted that the mitigation measures referenced in an executed grant agreement become contractual obligations on the part of the applicant and cannot be changed without the express written approval of UMTA. FHWA assures that mitigation measures are implemented by reviewing and approving the plans and specifications for the project and by conducting periodic construction inspections. On projects processed under an approved certification in accordance with 23 CFR 640, FHWA ensures the implementation of mitigation measures by conducting program management reviews and a final construction inspection.

In paragraph (c), different levels of responsibility for applicants preparing EISs are defined depending on whether section 102(2)(D) of NEPA or a State law comparable to NEPA applies. Several local transit agencies asked what role they would assume if a State requirement comparable to NEPA applies. In such cases, the transit agencies will have a joint lead responsibility with UMTA and will take a substantial role in preparing the environmental document. It is intended that a single document satisfy all Federal and State requirements.

Section 771.111. Early coordination, public involvement and project development. The FHWA and the UMTA regard early coordination and public involvement as critical to the successful completion of the processes required by this regulation. Scoping, a

major innovation of the CEQ regulations, is accomplished in this phase. Many potential difficulties confronting particular actions can be most conveniently identified and, in many instances, resolved at this stage.

Public involvement as discussed in this regulation, may mean not only public hearings, but a series of less formal informational meetings which begin after the planning phase and help affected persons and local governments learn about agency actions and identify potential difficulties at the earliest possible time. Very often, the persons most affected are those who must be relocated from their homes or businesses by the agency action. Appropriate relocation planning and studies should be done as part of initial project planning, usually during the course of preparing documents required by this regulation, to ensure that the rights and concerns of potentially affected residents and businesses are fully addressed and considered in the development and timing of agency actions. Very often, project location, design, and right-of-way problems are particularly sensitive where certain ethnic, social, or economic groups are affected to unusual or disproportionate degrees. Where this might be the case, these issues should be considered very early in the process. Notification of any project related hearings, meetings, or opportunities for public involvement should be placed in newspapers or publications most likely to be read by affected groups. This would include minority or foreign language newspapers where appropriate.

One commenter asked that paragraph (b) be dropped. This paragraph identifies an early point in project development, the Transportation Improvement Program (TIP) review, where the Administration will consult with an applicant on environmental requirements. This was done in response to paragraph 1505.1(b) of the CEQ regulations which requires Federal agencies to designate major decision points in their programs and ensure that the NEPA process corresponds with them. The TIP is a local planning document identifying projects to be implemented over a 3–5 year time frame. Not all listed projects are subsequently constructed, but inclusion in the TIP is an early indication that Federal funding may be pursued. It is expected that applicants will initiate environmental impact work first on the high-priority projects in the TIP. When adequate site-specific information is available at the TIP review stage, FHWA and UMTA will determine whether an EIS, EA, or CE is appropriate and whether other environmental requirements apply. The 3–5 year time frame of the TIP will allow ample lead time for document preparation, public involvement, and agency review. This provision has been retained because it supports early consultation in the environmental review process without placing unnecessary burden on prospective applicants. However, this paragraph was modified to indicate that FHWA would, where appropriate, indicate the possible class of action at the later, formal 105 program approval stage. This technical change was necessary since FHWA reviews, but does not approve, the TIP.

Paragraph (d) adopts the suggestion to change the word "should" to "must" in the second sentence.

Paragraph (g) describes the tiering of EISs as an optional approach which may have benefits when considering large, complex transportation projects. This paragraph stimulated a mix of comments. Several commenters expressed the concern that two sets of EISs do not lead to improved decisionmaking regarding major projects and are not justified considering the additional cost and time involved. Others supported the tiering concept and noted that it had been used successfully when incorporated with early planning at the local level. Tiering of EISs may be beneficial under certain limited circumstances, but a tiered approach can only be effective if the initial EIS is prepared very early in the planning process. The focus would be on a broad comparison of key environmental factors which may have a bearing on early decisions concerning, for example, the type of project, the general location, and major design features. This approach is consistent with the CEQ regulations which encourage agencies to consider environmental effects at an early stage before decisions on major alternatives are foreclosed. A second-tier EIS (or EA where no new significant impacts are expected) would be appropriate at the stage where a preferred alternative has been identified and project details have been developed.

Commenters asked for clarification as to how the Administration determines the need for tiered EISs. The decision to use tiering will be made in consultation with the applicant and will depend on the scope and complexity of the alternatives under consideration, the status of planning, and the need to address environmental considerations at an early stage in the local planning process. Generally, the Administration would not direct an applicant to prepare tiered EISs but, instead, would employ tiering to accommodate an applicant's planning or environmental review requirements.

It should be noted that this progressively, more focused look at a project embodied in the concept of tiering may also be accomplished with a supplemental draft EIS. If project details are developed before a final EIS has been issued (e.g., during preliminary engineering), site-specific environmental effects can be addressed in a supplemental draft EIS. In this case, the process would be concluded with a final EIS responding to comments on both the general and the site-specific draft EISs. Thus, the process of tiering EISs is most appropriate where a project concept is still in the formative stages and the applicant is actively seeking information from agencies and the public in helping to reach early decisions. Tiering is accomplished with two complete EISs; however, alternatives and environmental concerns fully considered in the first-tier statement need not be restudied in the second-tier EIS.

Paragraph (h), which discusses the FHWA public hearing requirements, has been addressed in a separate NPRM [50 FR 4525, January 31, 1985). A discussion of final revisions as well as comments submitted to the public docket appears later in this document as the last item in the section-by-section discussion.

A new paragraph (i) has been added discussing public involvement for UMTA's projects. No new requirements have been established; however, coordination of any public hearings with NEPA process is emphasized with special reference to the preparation of EAs and environmental studies. It should be noted that although these hearings and the FHWA hearings are coordinated with the NEPA process, they are not required by NEPA itself; the requirement for public hearings is found in FHWA and UMTA legislation. Under these statutes, questions such as the need to hold hearings during the preparation of a NEPA document and the type and scope of those hearings are within the Federal agency's discretion.

This new paragraph also refers to the scoping process as a means of inviting public and agency comments on a project proposal. Providing this opportunity for input at an early stage frequently helps the applicant and UMTA to focus on important environmental effects and to determine whether reasonable alternatives exist to avoid or mitigate those effects. For example, in regard to sections 9 and 9A of the UMT Act, UMTA intends that the

new paragraph (i) will generally apply to the program of projects proposed for Federal funding. If practicable, EAs should be prepared, where required by this regulation, before the notice of an opportunity for a public hearing on the program of projects. At a minimum, the notice announcing the opportunity for a hearing should indicate those projects requiring EAs, the timetable for preparing those documents, and how copies may be obtained. If, after releasing the EA, UMTA or the applicant becomes aware of strong community concerns or controversy on environmental grounds, or if UMTA determines that an EIS is necessary, the applicant will hold a separate hearing on the project to receive public comment. The UMTA will continue to require early contacts with affected agencies and the public in defining the scope of environmental documents.

Section 771.113. Timing of Administration Activities. This section describes the timing of various project development activities in relation to the completion of the environmental process. It places limits on the actions which the Administration and the applicant may take to develop a project prior to the completion of the NEPA process.

The language in paragraph (a) supports, and should be read in conjunction with, section 1506.1 of the CEQ regulations, "Limitations on actions during NEPA Process." These provisions ensure that the Administration's decision whether to implement an alternative under consideration in the environmental document will not be influenced by a previous commitment to a particular course of action. As such, the strictures apply not only to the Administration and applicants, but also third parties acting under a contractual agreement. Furthermore, the Administration or the applicant cannot prematurely enter into a contract which irrevocably binds it to the future performance of this work. This limitation on actions supports one of the primary purposes of NEPA—that Federal agencies consider environmental effects fully, including alternative courses of action, before reaching a decision to proceed with major Federal actions.

The wording in this paragraph has been revised to make clear the kinds of activities that will be allowed prior to the completion of the NEPA process. This will include any impact studies and engineering work needed to complete the environmental document. Normally, preliminary design will provide all the project information needed to satisfy environmental requirements. In certain cases, more detailed design work will be needed to satisfy a specific environmental requirement and this additional design work is allowed. This paragraph has also been changed to expand on the kinds of activities which may not occur prior to completion of the NEPA process.

It is important to note that the limitations on premature commitments in the CEQ regulations and this regulation apply to projects or activities that may be proposed entirely for local funding by an applicant or prospective applicant. If the action in question is an integral part of a larger project which is the subject of an environmental document, that action cannot be "segmented" from the overall proposal and funded separately before the environmental process is completed. Segmentation of a project might involve the early acquisition of property or the purchasing of rolling stock, construction materials, or other equipment needed during the construction phase. Segmentation could also entail separate development by the applicant of an entire portion of a project, e.g., a segment of highway or transit guideway that should be considered as part of a larger project for which Federal assistance is being sought.

A number of commenters suggested revisions to this section to permit the applicant to proceed with final design activities after the receipt and evaluation of comments on the draft EIS and prior to approval of the final EIS. The commenters contended that the EIS approval process delayed the start of final design work and, therefore, induced delays in all subsequent phases of the project development process. They suggested that if no environmental concern were raised during the draft EIS circulation period, final design of the preferred alternative should be allowed to proceed. The Administration has carefully considered these comments and continues to believe the environmental process must be completed and the EIS approval made before it is in a position to permit the applicant to proceed with final design activities. We recognize the need to develop preliminary designs in order to more accurately assess impacts in the environmental document. However, granting approval to proceed with final design at this stage would be a premature commitment to one alternative at a time when other alternatives, including the alternative of taking no action, are still being actively considered by the Administration in the environmental process.

However, the Administration recognizes the need to proceed with detailed design activities where such work is necessary to permit the full evaluation of environmental impacts and to permit the consideration of appropriate mitigation measures, e.g., impacts to wetlands, section 4(f) areas and resources covered by section 106 of the National Historic Preservation Act (section 106). The regulation provides for those situations by allowing the applicant to complete all necessary design work needed to complete the EIS or to comply with other environmental laws during the NEPA process. This should not be construed as an authorization to proceed with final design for the entire project, but only for those aspects of the project necessary to consider specific environmental concerns.

The possibility of acquisition of land for a project before completion of the NEPA process was raised by several commenters. The UMTA received comments in favor of both expanding and restricting the scope of advance land acquisition allowed under the regulation. Several commenters suggested that UMTA expand the scope of advance land acquisition because the Surface Transportation Assistance Act of 1982 (STAA) amended section 3(a)(1)(A) of the UMT Act by adding a provision specifically addressing UMTA's discretion to make grants or loans for the acquisition of rights-of-way and relocation for fixed guideway corridor development for projects in advanced stages of alternatives analysis or preliminary engineering. On the other hand, one commenter expressed the opinion that "no acquisition should be allowed prior to completion of the NEPA, process," arguing that hardship or protective buying cannot be accomplished without influencing or limiting the choice of reasonable alternatives.

In weighing the arguments, UMTA considered how to implement the STAA amendment consistently with the agency's responsibilities under NEPA and with the results of pertinent case law governing advance land acquisition, *National Wildlife Federation vs. Snow*, 561 F.2d 227 (D.C. Cir. 1976). The UMTA has concluded, in light of these considerations and a review of the pertinent legislative history, that this amendment was not intended to override the requirements of NEPA.

For UMTA's major fixed guideway projects, the draft and final EISs are developed during alternatives analysis and preliminary engineering. Any authorization for advance land

acquisition during alternatives analysis or preliminary engineering would create a conflict with NEPA if the acquisition could result in a substantial commitment to a particular course of action before the NEPA process was completed. In addition, since UMTA's major investment procedures are integrated with the NEPA process, this would also prejudice the major investment decisionmaking process.

After careful review, FHWA and UMTA still believe that some advance land acquisition may take place on a case-by-case basis without resulting in a substantial commitment to a particular course of action before completion of the NEPA process. Therefore, in this regulation, FHWA and UMTA are maintaining the current practice: that is, the only types of advance land acquisition that FHWA and UMTA will approve before the completion of the NEPA process are "hardship" and "protective" acquisitions. These terms are defined in § 771.117(d)(12) of this regulation.

As in the past, this type of land acquisition is reserved for extraordinary or emergency situations involving a particular parcel or a limited number of parcels within the proposed transportation corridor. It has been FHWA's and UMTA's recent experience that the number of hardship and protective acquisitions on a given project are so few as to not result in a substantial commitment to a particular course of action. The purpose of protective acquisition is to preserve the status quo. Since it serves to protect valuable property and can be easily undone, such acquisition generally will not tilt the balance toward a particular alternative.

Another question is whether acquiring an option to purchase land before completing the environmental process would be an acceptable alternative to assure the availability of land for project purposes. It would be less costly and arguably would constitute a smaller commitment than the actual purchase of land. Generally, UMTA and FHWA maintain that acquiring options to purchase land for a project would tend to bias fair consideration of other project alternatives and violate basic principles of Federal environmental law. Therefore, the same standards apply to options to purchase as to outright purchase of land: before completing the environmental process, only acquisitions for hardship and protective purposes are acceptable.

To obtain approval for hardship or protective acquisition, the applicant should apply for a CE under paragraph 771.117(d)(12). In addition, for FHWA actions, hardship and protective acquisition activities must be processed in accordance with 23 CFR 712.204(d). It should be noted that a CE for advance land acquisition applies only to the purchase of property and does not permit further project development. The restrictions of paragraph 771.113(a) will apply until the Administration completes the NEPA process for the entire proposed action. The FHWA has issued guidelines and UMTA is preparing similar guidance describing the documentation needed to support requests for hardship and protective buying. Documentation supporting these claims will continue to be reviewed in the field offices of FHWA and UMTA.

One commenter suggested that any advance land acquisition be noted in the subsequent EIS or EA. The FHWA and the UMTA have no objection to noting this information in environmental documents, but do not believe it is appropriate to require it under the regulation.

Paragraph (a)(3) has been added to emphasize that in addition to environmental requirements, certain programming requirements must be satisfied prior to the initiation of FHWA funded final design, acquisition, and construction activities. This paragraph is a cross reference to 23 CFR Part 450 and 23 CFR Part 630 and does not create any additional requirements.

Paragraph (b) has been revised to indicate that FHWA approval of the final environmental document is considered acceptance of the general project location and project concepts such as type of facility, interchange locations, and other major features which may be indicated in the environmental document. This paragraph is an indication that FHWA normally will approve for Federal funding a project of the type noted in the final environmental document. However, it does not commit the Administration to fund any specific project or any features identified therein. Final approval of the EIS does not constitute a commitment to fund the project, as noted in this paragraph and in § 771.125(e) of this regulation.

Section 771.115 Classes of actions. Actions treated under this regulation fall in one of the classes outlined in this section. Class I actions are those which typically require an EIS. Class II actions are those which typically are classified as CEs. If it is uncertain whether a particular action requires an EIS, and it requires an EA to establish the significance of the impacts, the action is grouped under Class III. A change in this section was the shifting of the list of examples of CE activities to § 771.117. This has been done in order to group all activities related to CEs in § 771.117.

One commenter suggested deleting the list of Class I actions that remains in § 771.115(a) and, instead, focusing on the definition of significance as applied to environmental impacts in the CEQ regulations. Examples of specific Class I actions are included in the regulation in accordance with § 1507.3(b)(2) of the CEQ regulations. We have referenced the section of the CEQ regulations that addresses the significance of impacts rather than repeating it.

One commenter suggested that the wording be changed in paragraph (a) to indicate that the projects listed under Class I may not in all cases require EISs. The CEQ regulations require that Federal agency procedures include specific criteria for and identification of those typical classes of action which normally require EISs. While there may be individual projects listed in Class I that because of unusual circumstances would not require an EIS, such projects are exceptions to the rule. The wording in paragraph (a) has been changed to parallel the CEQ regulations (40 CFR 1507.3(b)(2)). The intent of dividing projects by class is to provide guidance on the environmental review process that will be followed normally for projects in the class. The FHWA and the UMTA will continue to review individual cases whenever applicants describe circumstances which may have a bearing on the choice of environmental process. The final decision on class of action will be made by the Administration.

In the NPRM, UMTA proposed eliminating exclusive busways as Class I actions because of the potential to construct and operate a busway on or within an existing highway without significant environmental impacts. A number of commenters supported this change. Busways are frequently established by dedicating an existing highway lane for exclusive bus and high occupancy vehicle use and the regulation affords the flexibility to handle such projects with an EA instead of an EIS. The NPRM noted UMTA's intention to continue to require an EIS for construction of a new roadway for buses which is not integrated in an existing highway. This type of project is now listed in the regulation as a Class I action. Other types of busway projects will be reviewed individually to determine the appropriate environmental document, e.g., busways on existing lanes or medians which have off-line facilities such as stations, park-and-ride lots, transfer points, etc.

The UMTA also proposed eliminating "major transportation-related developments" as Class I actions. These were joint public/private urban development projects that were tied into transit terminals or stations. These types of projects normally required an EIS. They were dropped from the list of Class I actions because they are no longer a significant part of the UMTA program.

Several commenters who supported the proposal to remove busways constructed on existing highways from the Class I list suggested that rail lines built in highway medians should be accorded the same treatment. However, the environmental effects associated with the fixed facilities of a rail line—stations, parking lots or structures, storage and maintenance yards—and the changes in travel patterns and land use associated with such projects are normally significant and warrant evaluation in an EIS. Greater variability exists in constructing a busway on an existing highway. Thus, the regulation provides the flexibility to handle the simpler busway projects with a simpler environmental process, while mandating an EIS if the EA shows significant impacts.

Another commenter, noting the change proposed for busway projects on existing highway facilities, argued that the initiation or increase of rail passenger service on rail lines already in use was analogous and should, therefore, not require an EIS. Reference was made to an exemption from State environmental requirements for such projects in California. The UMTA recognizes there may be some cases where a rail rapid transit project proposed on an existing railroad right-of-way can be built and operated with minimal environmental impact. In such cases, the fact that displacement of residences and businesses is avoided or minimized alleviates one potentially significant concern. However, these projects are exceptions which would not warrant a change in emphasis in the regulation. Sometimes rail projects are proposed on railroad rights-of-way that are abandoned or lightly used for freight. In these situations, the rapid transit project may intensify some effects associated with existing railroad operations, e.g., wayside noise, and could introduce new impacts at proposed station locations, such as traffic congestion and parking demand. It should be noted that listing as a Class I action does not preclude the handling of specific cases with EAs. The FHWA and the UMTA will continue to review individual project proposals to establish the appropriate environmental document and level of environmental analysis.

Section 771.117. Categorical Exclusions. CEs are tyes of actions which in the Administration's experience have normally been found not to have significant environmental effects. Designation as a CE speeds the Administration's approval process by eliminating the need for an EIS or EA on an activity proposed for Federal funding. The FHWA and the UMTA proposed several important changes to the process of classifying and approving CEs in the NPRM and many comments were made on the changes. It is important to note that these changes have been made in response to the CEQ's latest guidance to Federal agencies on this subject (48 FR 34263, July 28, 1983). Agencies were encouraged to add the flexibility to their implementing procedures to allow new types of actions to be classified as CEs with minimal documentation required. They were to do this by developing more broadly defined criteria as well as providing examples of typical CEs, rather than a comprehensive list, so that specific actions not previously listed by an agency could be considered for CE status on a case-by-case basis. This regulation generally adopts this approach.

We have amended §§ 771.115 and 771.117 to clasify FHWA's and UMTA's role in reviewing CE designations for proposed projects. These amendments are designed to speed the approval of many smaller projects while focusing attention on projects with particular environmental concerns. This change in procedures is one of the several steps taken by FHWA to comply with the requirements of section 129 of the STAA of 1982.

The FHWA and the UMTA have examined the existing list of categorically excluded actions and separated it into two groups. The first group includes actions which experience has shown almost never involve significant impacts. The second group contains examples of projects which usually have been found appropriate for CE classification but may, depending upon the circumstances, have significant adverse effects (e.g., increased noise, wetlands encroachment, historic site impacts) which would preclude the use of the CE classification. Site location and the surrounding land use are often key factors. Thus, the Administration will require all appropriae information on the area immediately surrounding the proposed project site and any specific impact studies which may be needed to determine whether CE status is appropriate

It should be noted that projects approved on an individual basis will not be added to the list or examples in the regulation. Reviews of individual projects for CE status on a case-by-case basis will be at the field office level, although there will be coordination with Headquarters. Where a pattern emerges of granting CE status for a new type of project, rulemaking will be initiated to determine whether to add such projects to the list of CE examples in the regulation. Section 771.117(e) has been added to the regulation to describe these procedures.

Some commenters objected to the intent of splitting the original CE list into two groups and suggested that the Administration give a one-time designation to all CEs with no further review. This view contrasts sharply with the comments of others who felt the one-time designation for certain CEs would allow some projcts with adverse consequences to escape scrutiny. The FHWA and the UMTA believe that this regulation strikes the proper balance. Only those actions which normally have no effect or minimal effect on the environment are included in the first group of CEs. Furthermore, in unusual circumstances, even these actions must undergo an environmental review if an EIS could be required, as provided in § 771.117(b).

Several commenters expressed the concern that specific environmental laws and administrative requirements might be overlooked if a project qualified as a CE in the NEPA compliance process, particularly in the first group of CE projects, which do not require individual Administration approval. One commenter noted that many of the actions listed in the second group of CEs could have significant effects depending on the location of the activity, thus, they should be subject to the more thorough analysis of an EA.

The final regulation is an effort to strike a reasonable balance between environmental concerns and the reduction of excessive procedures and paperwork. In adopting this approach, it is not the intention to exempt the first group of actions from any appropriate Administration review. Experience has shown that the actions placed in the first group almost never cause significant impacts to the environment and, from the standpoint of NEPA, are properly classified as CEs.

This prior approval with respect to NEPA compliance in no way implies that a project is exempt from the requirements of other laws. All other

laws and procedures still apply. For example, minor modifications to a historic building may require a review pursuant to section 106 or the proposed use of a minimal amount of land protected by section 4(f) may require review under that statute. We believe that these cases will be identified from information in the grant application and in other pertinent planning and programming documents available to the Administration. If there is any doubt over the applicability of a related environmental law or regulation, the Administration will request additional information to help determine whether such requirements apply. These determinations can usually be made with only a brief description of the area immediately surrounding the proposed project site.

The second group of CEs is composed of projects which normally do not involve significant environmental effects when carried out under the conditions or criteria set forth. They generally involve more construction than projects in the first CE group, and their designation as CEs is more dependent on proper siting. Projects in the second group will require documentation from the applicant to clearly establish that there are no significant impacts.

Several commenters expressed concern that the documentation required for the second group of categorically excluded projects defeats the purpose of the CE concept. We believe that this documentation, focused on particular areas of concern, is the only way to proceed while ensuring that federally assisted projects do not cause environmental harm. We expect that the documentation will be briefer that an EA since it will be focused on a limited number of environmental concerns and usually will not include and evaluation of alternatives as is often contained in an EA. Under this approach, projects which appear to meet the general criteria for CEs in paragraph (a) but are not specifically mentioned in the regulation may be approved on a case-by-case basis as provided in § 771.117(d).

Also with respect to CEs, there were numerous suggestions to: (1) Delete certain actions from the CE lists altogether, thus requiring preparation of EAs at a minimum, and (2) move certain CEs from the first group to the second group, requiring some level of supporting documentation, and move some from the second group to the first group. As a result, FHWA and UMTA reassessed all the CEs to determine if their present status was appropriate. Certain refinements are reflected in this final regulation.

One commenter requested that CE status be given to all projects funded under sections 16 and 18 of the UMT Act which deal with elderly and handicapped access to transportation facilities and assistance for non-urban areas, respectively. A new CE has been added to cover modifications to facilities or vehicles for the express purpose of elderly and handicapped accessibility. Many of the projects funded with grants under section 18 are covered by existing CEs, e.g., new bus maintenance facilities, reconstruction of existing buildings, and vehicle purchases. However, a blanket CE for any project that might be proposed under section 18 is inappropriate.

A number of commenters asked for changes to clarify the description of certain CEs. One suggestion dealt with the CE for rehabilitation of rail or bus buildings in which "only minor amounts of additional land are required." We agree with the commenter that the ultimate concern is not the amount of additional land but whether significant environmental effects are involved. However, limiting this CE to situations where only minor amounts of additional land are needed draws a distinction between a rehabilitation or renovation-type project and a major expansion of an existing facility generally requiring more land. We have retained the existing language because there is greater confidence that the project as described would qualify as a CE.

A number of commenters suggested that weigh-station and rest-area construction should be in the first group of CEs. After considering these comments, it was decided to divide weigh-station and rest-area activities into two groups. The reconstruction and/or rehabilitation of existing facilities were added to the first group of CEs. However, because of the issues likely to be involved in the case of new rest areas or weigh stations, it was decided to leave these types of activities in the second group of CEs which requires approval on a case-by-case basis.

A number of commenters also suggested that traffic control devices be moved to the first group of CEs. Because of the wide range of activities that may take place under the broad category of "traffic control devices," the Administration has decided to divide those activities into two groups: (1) Traffic signals in the first group of CEs and (2) ramp metering controls in the second group (which requires Administration approval).

On commenter questioned whether the proposal to categorically exclude the promulgation of rules, regulations and directives which require a regulatory impact analysis was properly conceived, since the need for regulatory impact analysis seems to have little bearing on the possible environmental effects of the rule, regulation, or directive. The Administration agrees and has removed the phrase that refers to an regulatory impact analysis. Furthermore, because the vast majority of Administrative rules, regulations, and directives have not had significant environmental impacts, this action was moved from the second group to the first group of CEs. However, in unusual cases an environmental review will be conducted as required by § 771.117(b).

One commenter objected to removing the prohibition, that is in the 1980 regulation, against categorically excluding bridges on or eligible for the National Register of Historic Places and bridges providing access to barriers islands. This prohibition was removed because it is too general. Projects involving historic bridges or bridges to barrier islands may be properly categorically excluded or may require the preparation of an environmental assessment or an environmental impact statement depending on the severity of the anticipated impacts. The criteria for categorical exclusions presented in § 771.117(b) and the procedure for evaluating "unusual circumstances" in § 771.117(b) provide a suitable mechanism for determining whether, based on specific information regarding project impacts, a categorical exclusion in proper. In addition, since bridges are in the second CE category, historic bridges would always require some documentation that should reveal whether further environmental review is needed. The commenter's concern that historic bridges be adequately protected is addressed by § 771.117(b)(3), that relates to properties protected by section 4(f) or section 106. The barrier island issue is addressed by § 771.117(b)(4), that focuses on inconsistencies with environmental laws and requirements, such as the statutes that protect barrier islands.

In the proposed rule, § 771.117(b) limited the need for further environmental review to "extraordinary" cases. The historic bridge example illustrates that actions on the CE list may sometimes require a full environmental review, depending upon the circumstances. Such cases are unusual, but are not necessarily extraordinary. The indicate the need for environmental review in these and other

similar cases, § 771.117(b) has been revised to describe them as "unusual," rather than extraordinary.

Several comments concerned advance land acquisitions. We believe advance land acquisitions require more documentation than a project description. Therefore, this CE has been included under the second group of CEs in paragraph (d).

Clarification was requested as to whether construction could occur after the land was acquired. This CE is intended to cover the very limited cases where advance land acquisition as set forth in § 771.113(a) is appropriate. The CE does not cover the entire project. Thus, in these cases, even though the land is acquired early, project development cannot occur until the NEPA process is completed and the Administration reaches a decision on whether to implement the proposed project. The CE for advance land acquisition has been modified to clarify this point.

In the 1980 regulation, the CE for advance land acquisition covered hardship and protective acquisitions, as defined in 23 CFR 712.204(d), and acquisitions under section 3(b) of the UMT Act. However, because hardship and protective acquisitions were not specifically referenced in the CE, some applicants have interpreted it as establishing a category of advance land acquisition in addition to hardship and protective acquisitions. The CE has been modified to clarify this point. Thus, the CE for advance land acquisition in the final regulation continues the Administration's existing practice for advance land acquisition. A definition of these terms has been added to the regulation.

It should be noted that the number of acquisitions under section 3(b) of the Urban Mass Transportation Act to date has been very limited and is expected to remain so. The purpose of section 3(b) is to allow the acquisition of land that may or may not be used for mass transit in order to preserve that land before land speculation caused by transit development inflates the price of the land. The UMTA will approve loans under section 3(b) only for unique circumstances, such as acquisition of abandoned rail right-of-way and only where there are no immediate plans for a project. UMTA will review each case separately to determine whether the action requires and environmental review. Where the grantee has definitely planned a mass transit project, section 3(a) is the appropriate section of the UMT Act under which to proceed. Under section 3(a), any major land acquisition requires full compliance with NEPA.

Another commenter asked UMTA to distinguish more clearly the difference between small passenger shelters and bus transfer facilities. The CE for bus shelters covers the separate small shelters typically found throughout a transit system. The bus transfer facility CE refers to focal points of bus activity where several bus routes connect. It includes construction of passenger shelters, loading bays, layover areas, and related street improvements. The primary environmental concerns are the noise, traffic, and safety consequences of frequent bus movements in a new area. However, this CE does not apply to the construction of new bus terminal buildings.

In the NPRM, comments were invited on the specific conditions or criteria which should apply to a CE for rail car storage and maintenance facilities. One commenter recommended against establishing specific criteria for new rail yards since they are typically constructed in areas with compatible land uses and zoning. It was suggested that a project-by-project review would be satisfactory to identify those infrequent cases where a CE may not be appropriate. We agree that rail yards are usually located in areas characterized by industrial or transportation use. However, land-use compatibility, increased traffic, and noise have been issues where non-conforming residential land use is close by. These concerns have arisen with new facilities as well as the expansion of established rail yards. The existing wording has, therefore, been retained to describe the conditions under which approval as a CE is most likely.

There were other suggestions for new types of projects that should be categorically excluded. If, in the Administration's view, the proposal would have insignificant effects on the environment in the great majority of cases, the proposal was adopted. For this reason, as noted earlier, a CE has been added for alterations to make buildings and vehicles accessible to elderly and handicapped patrons. Other suggestions for CEs were not added as examples in the regulation because it was difficult to describe specific conditions or criteria which would provide assurance of no significant environmental effects. However, applicants may still submit new projects that they believe meet the criteria of § 771.117(a) accompanied by documentation supporting the CE designation. If the applicant's proposal for a CE involves new technology or presents environmental impacts with which the Administration has little or no experience, it is likely that an EA will be required to examine the full range of environmental effects from such an action. In introducing flexibility in the CE process, the goal has been to speed the process for projects where there is the greatest confidence as to the insignificance of the impacts. However, this approach also requires a careful look, in the form of an EA, where greater uncertainty exists concerning environmental effects. Under paragraph (d), the Administration has the discretion to review all proposals for categorical exclusions on a case-by-case basis.

A number of comments were also received on paragraph (b) which sets forth the instances when unusual circumstances make it appropriate to require further studies to determine if the CE classification is appropriate. The level of additional study required by this paragraph will vary. In the occasional or rare case where significant impacts are caused by a normally excluded action, an EIS is required. In some cases, only a minor environmental review would be necessary and, in other cases, a full EA may be needed.

One commenter objected to the statement that "substantial controversy on environmental grounds" should trigger the requirement for an environmental study. Both the CEQ regulations and DOT Order 5610.1c list "substantial controversy" as a circumstance when a CE may not be appropriate for a normally excluded action. Substantial environmental controversy over a minor project may indeed indicate the presence of problems requiring further study.

Another commenter objected to the inclusion of significant impacts on properties protected by section 4(f) and section 106 as an example of "unusual circumstances." The point was made that some projects do not involve significant environmental impacts but may still cause effects which must be considered under section 4(f) and section 106. The commenter felt that the applicability of those laws should not automatically trigger a requirement for further NEPA documentation. The proposed language has been retained. Significant impacts on these statutorily protected sites are a clear indication of impacts not appropriately considered as a CE. This mandates a review of impacts better accomplished in an EIS or an EA rather than a separate section 4(f) evaluation. The requirement for an environmental document also underscores the importance the DOT

places on the protection of section 4(f) lands. A provision similar to paragraph (b) is contained in the DOT Order 5610.1c.

Section 771.119. Environmental Assessments. An EA must be prepared for all actions which do not qualify as a CE and do not clearly require an EIS. Studies undertaken solely to determine whether a project qualifies as a CE are not EAs. The purpose of an EA is two-fold. First, an EA should resolve any uncertainty as to whether an EIS is needed. Should the need become evident at any time in the course of the EA process, an EIS should be started. If no EIS is required, the EA process is completed with a finding of no significant impact (FONSI) (§ 771.121). Secondly, to the extent practicable, the EA should contain sufficient information to serve as the record for all environmental approvals and consultations required by law for the action and should include approvals by and consultations with other agencies, as well as those of the Administration. The EA must be made available to the public, although circulation requirements are considerably simpler than those required for an EIS.

One commenter suggested that the notification/distribution requirements for EAs be modified so that interested Federal agencies can be notified directly of the availability of EAs. Our aim is to streamline the environmental review process, particularly for those highway and transit projects that typically do not involve significant environmental impacts and are processed with EAs or as CEs. The EA is a public document, available on request from the applicant or Administration field offices. The applicant must publish a notice of its availability to ensure proper notification to the public. Notice of availability of the EA shall also be sent by the applicant to affected units of Federal, State and local government. The State agency responsible for intergovernmental coordination pursuant to Executive Order 12372 will also be notified. Beyond such notification, we do not intend to require a formal distribution process for EAs. Those agencies and interested parties participating in the early coordination/scoping process should be notified of the availability of an EA and a subsequent FONSI, should either be approved. Projects normally requiring EISs which are processed with EAs will be subject to the full, early coordination and public involvement requirements described in § 771.119.

On commenter raised a question about § 771.117(e) of the NPRM under which the Adminstration encouraged applicants to prepare the EA and make it available prior to any public hearing that was required to be held on a proposed project. The concern was that the applicant must shoulder the cost of preparing an EA to satisfy a Federal requirement and would not be reimbursed for the cost of preparing the document if the grant application was subsequently disapproved. Environmental analysis is frequently funded in grants for planning or preliminary engineering which precede any Federal decision on construction funding. Thus, the possibility exists that an applicant may receive Federal funding for environmental analysis on a proposed project which, for a variety of reasons, does not advance to construction. Acceptance or approval of an EA by the Administration should not be construed as a conditional approval of the project. Lacking an earlier grant for planning or design, the applicant may have to bear the cost of preparing an EA. In most cases, however, preparation of an EA, in contrast to an EIS, does not entail a major investment of staff time and money.

When a public hearing is to be held, the EA should be prepared and made available for a reasonable period of time prior to the hearing. We will continue to encourage applicants to coordinate the EA and public hearing requirements in order to meet our responsibilities under section 1506.6 of the CEQ regulations. The preamble discussion for paragraph 771.111(i) treats the coordination of public hearings and EA preparation for transit projects funded under Sections 9 and 9A of the UMT Act.

One commenter suggested that the regulation be amended to give the Administration the option to hold a public hearing upon request. This comment has not been adopted because making this decision optional would fall short of the requirements of FHWA and UMTA statutes which mandate that an opportunity for a public hearing be afforded (see paragraphs 771.111 (h) and (i) of this regulation).

In paragraph (f), the former reference to a "shorter" time period than 30 days for comments has been changed to a "different" time period. This change was made to cover the situations where the State or local applicant or the Administration may feel a longer time period is appropriate.

The NPRM required that after any public review period for an EA, the applicant provide the Administration with a summary of any comments received. The final rule provides, instead, that the actual comments be transmitted. This change eliminates the need to prepare a summary and avoids any possibility of misinterpreting comments.

Paragraph (g) also states that an EA, like an EIS, should be the vehicle for compliance with all applicable environmental laws and regulations. This addition merely restates in the EA section the long-standing DOT policy of a "one-stop" environmental process.

Section 771.121. Findings of no significant inpact. This section remains unchanged from the NPRM except for some minor editing to improve the readability of the section.

Section 771.123. Draft environmental impact statements.

Paragraph (a) of this section and § 771.119(i) have been clarified to underscore the fact that an environmental impact statement need only be prepared when significant impacts on the environment will be or are likely to be caused by the proposed action. The environmental studies defined in § 771.107(a) or the EA discussed in § 771.119 would provide the basis for an informed judgment if there is any doubt about the magnitude of the environmental impact.

Paragraph (d) has been revised to clarify the requirements when a consultant is involved in the EIS process. This paragraph is now consistent with the definitions contained in paragraph 771.109(c) of this regulation. The FHWA deals only with SHAs and State Departments of Transportation. Accordingly, all FHWA applicants qualify as "Statewide agencies." The FHWA approval of consultants is needed only when Federal funds will be used to reimburse the consultant. In those situations, other FHWA regulations govern the consultant selection process. In the case of UMTA-funded activities, UMTA should be apprised of the possible use of consultants before work is undertaken. Although UMTA will not normally participate in the consultant selection, staff will advise applicants if there is a need for interdisciplinary capability in preparing an environmental document and will, when necessary, jointly evaluate consultants' qualifications. The UMTA will apprise applicants of paragraph 1506.5(c) of the CEQ regulations, governing work by consultants and possible conflict of interest.

Paragraph (h) has been amended to indicate that the draft EIS shall be available at the public hearing as well as a minimum of 15 days in advance of the public hearing. As expected, there were comments favoring the shortening

of the minimum period to 15 days and comments objecting that this is unreasonably short. The statutes governing FHWA and UMTA programs require only that adequate notice of any public hearings be given. The change was made to be consistent with the CEQ regulations (section 1506.6(c)). We recognize, however, that the typical EIS with a 45-day circulation period would allow a 30-day notice for a public hearing with no delay in the environmental review process. We will encourage applicants to give greater than 15-day notice whenever possible in order to foster public involvement in the NEPA process.

One commenter asked that FHWA and UMTA specify in the regulation their time for reviewing EISs. Setting time limits for the major steps in the EIS process is a task accomplished in the scoping process. The time periods will vary from project-to-project depending on the size and complexity of the project and other factors set forth in section 1501.8 of the CEQ regulations dealing with time limits.

Section 771.125. Final environmental impact statements. As with the section dealing with draft EISs, few changes were proposed to our final EIS procedures. There was support for the proposed change in paragraph (a) eliminating the requirement to describe in the final EIS the procedures to be followed to assure that all environmental mitigation measures are implemented. The FHWA and the UMTA's general approach to ensure that mitigation is carried out has been outlined in paragraph 771.109(b). Any further details would be developed on an individual project basis by the applicant and Administration. This does not represent a change in the Administration's commitment to take all practicable steps to mitigate any adverse environmental consequences caused by transportation projects.

There also was support for the proposed change to identify, rather than describe, mitigation measures. However, UMTA and FHWA have decided that the requirement of describing mitigation measures should be retained. Accordingly, the final regulation continues the existing practice of a full description of mitigation measures in the final environmental document, to the extent permitted by the level of design. When details on mitigation measures have not been developed at the time the final EIS is being prepared, the final EIS should describe the measures in as much detail as possible and give an assessment of the effectiveness of such measures in reducing environmental harm. When there is uncertainty over the choice of mitigation measures, the range of measures under consideration should be fully described, and the final EIS should address mitigation in terms of the results that will be achieved, e.g., conforming to governmental standards or plans or meeting criteria developed for specific projects. These measures will be summarized in the Record of Decision (ROD) for projects requiring EISs.

Many commenters supported the change eliminating the need for prior concurrence by the Administration Headquarters on certain EISs. There was a dissenting view that Headquarters oversight was needed to ensure that DOT environmental protection responsibilities were being fully met. The delegation of greater EIS responsibility to field offices is an important change from the standpoint of streamlining the environmental review process. This provision allows routine EISs to be completed more quickly. Internal procedures in the FHWA and the UMTA will ensure that EISs for projects with major unresolved issues are reviewed by Headquarters. The regulation specifies those circumstances in which Headquarters' concurrence will normally be required.

The provision for legal review of final EISs has been retained. Experience has shown this to be an important requirement.

Paragraph 771.123(d)(2) of the NPRM which deals with FHWA actions on programmatic documents has been dropped from the final rule. The FHWA has issued internal operating instructions that all programmatic environmental documents will be sent to the Administration Headquarters for action. Since this is an internal Administration practice, not a requirement imposed by the Administration on its applicants, it was decided to eliminate that provision from the regulation.

Paragraph (e) concerning the significance of the Administration's approval of the final EIS has also been modified to better emphasize that approval does not constitute a present or future commitment of funds to the preferred alternative.

Section 771.127. Record of decision. The basic mechanism for the ROD remains unchanged. The ROD lays out the basis for the decision as specified in 40 CFR 1505.2 and summarizes the mitigation measures that will be incorporated in the project. The last sentence of paragraph (a) of the NPRM has been eliminated. That sentence indicated a ROD was not required for projects where the draft EIS was filed with EPA prior to July 30, 1979. We believe that this "grandfather" clause is no longer appropriate and have eliminated it in response to comments.

The ROD is a public document and will be made available to the public on request. However, FHWA and UMTA will not routinely distribute RODs to all those who received the final EIS, nor will we distribute RODs on all projects to an individual agency. One commenter asked that we seek outside consultation and review whenever the Administration changes the proposed action and a revised ROD has to be prepared. If the proposed action changes to an alternative fully evaluated in the final EIS, but not identified as the preferred alternative in that document, the Administration will issue a new ROD and distribute it to everyone who received the final EIS. The regulation states that this distribution will be made to the extent practicable, meaning that documents will be sent to the addresses of record, but the Administration cannot ensure that people who have changed addresses will be reached.

Section 771.129. Reevaluations. This section directs the applicant to consult with the Administration prior to proceeding with major project activities, such as land acquisition and construction, to assess any changes that have occurred and their effect on the validity of the environmental document.

After the environmental process has been completed, the Administration is free to make a funding decision and proceed with construction of a project. The decision to implement a project may occur soon after the final environmental document is approved and circulated or it may be deferred for various reasons. Where a substantial period of time has elapsed since the initial environmental review process, the Administration needs to determine whether existing environmental documents and findings remain valid before moving ahead with construction. The Administration must also ensure that mitigation measures stated as commitments in environmental documents have been incorporated in appropriate contract documents, plans, specifications, and estimates.

Many commenters objected to the proposal in the NPRM for a written evaluation, required in all cases, to assess whether the final EIS was still current. Based on these comments, the Administration has agreed that a written evaluation of the final EIS should not be required before every major project approval or filing for a Federal permit. Instead, the Administration has substituted two

paragraphs. One of these requires a written evaluation of the final EIS if major steps to advance a project have not been taken within 3 years of final EIS approval or the last major Administration approval or grant. The purpose of this paragraph is to require a careful look at proposed projects which have not gone to construction and have been inactive for a relatively long time since the final EIS or last major step in project development. A similar paragraph appeared in the 1980 regulation but was deleted in the NPRM.

The second paragraph, paragraph (c) in the final regulation, requires consultation in all cases not covered by paragraphs (a) and (b), but leaves discretion to determine on a case-by-case basis whether a written report is required. The Administration will determine whether the changes are significant enough to warrant a supplemental EIS (as outlined in § 771.130). The Administration believes the fixed time period of paragraph (b) and the flexibility of paragraph (c) would accomplish the purpose of the NPRM, without imposing the burdens objected to by the commenters.

Normally, the reevaluation requirements apply at the right-of-way authorization stage and at the construction stage. However, on the more complex projects, the Administration may identify additional points at which it would be appropriate to reevaluate the status of the previously approved environmental document. The regulation is structured to ensure that the Administration has a current and valid environmental document on file prior to permitting the applicant to proceed with any subsequent phase of the pending project.

Section 771.130. Supplemental environmental impact statements. Paragraph (a) retains the provisions in the 1980 regulation that a draft or final EIS may be supplemented at any time. This provision had been included in § 771.127(a) of the NPRM. In addition, it makes clear that a supplemental EIS may be supplemented at any time.

Paragraph (a) also identifies those situations in which a supplemental EIS must be prepared. A supplemental EIS is required where changes in the proposed action or new information or circumstances relevant to environmental concerns and bearing on the proposed action would result in significant environmental impacts not already evaluated in the EIS. The language in paragraph (a) was changed to more closely parallel the CEO regulations. It replaces § 771.129(b) of the 1980 regulation which required a supplemental EIS when there had been "significant changes in the proposed action, the affected environment, the anticipated impacts, or the proposed mitigation measures." The word "change" in the regulation is no longer limited to the four categories set forth in the 1980 regulation. Instead, this paragraph focuses the determination of whether a change or new information is "significant" to the anticipated impacts of the proposed action. The regulation is intended to distinguish, for example, between new information that may be very important or interesting, and thus, significant in one context, such as to the scientific community, and yet should not be considered "significant" so as to trigger preparation of a supplemental EIS because the information does not result in a significant change in the anticipated environmental impacts of the proposed action.

Paragraph (b) identifies two circumstances in which a supplemental EIS is not required. Paragraph (b)(1) provides that no supplemental EIS is required where changes or new information would mitigate or lessen adverse impacts that have already been evaluated in the EIS and do not cause any other environmental impacts that are significant and which were not evaluated in the EIS. This provision is intended to cover primarily the situation where a proposed action is down scaled or additional mitigation measures are incorporated in a project. Changes or new information that only reduce impacts and are of the same character as those discused in the EIS could include, for example, less right-of-way taken, fewer relocations, or reduced noise levels as a result of additional noise walls. This section only applies where the change or new information does not cause any other impacts that are significant. If the change or new information results in impacts that were not evaluated, a supplemental EIS would be required if the new impacts are significant. Thus, in response to comments on the NPRM, the regulation recognizes that even beneficial changes may be significant and require a supplement if they result in a type of impact that was not evaluated in the original EIS. Further, if previously evaluated impacts become significantly worse, so that the environmental impacts of the action are greater than thought initially, a supplemental EIS would also be required. For example, a supplemental EIS would continue to be required where mitigation measures, presented as commitments in the final EIS, are changed or withdrawn, thereby creating new and significant environmental effects.

Paragraph (b)(2) indicates that a supplemental EIS will not be necessary if a decision is made to fund an alternative fully evaluated in a previous EIS but not identified therein as the preferred alternative. In those situations, a revised ROD must be prepared and provided to all parties that received a copy of the final EIS. A supplemental EIS would be required if the impacts from the alternative now designed as the preferred alternative were not fully evaluated and appropriate mitigation measures included in the original EIS. After a revised ROD is prepared, public and agency notification of the change in the recommended alternative is essential. The specific methods used to notify the public of the change will be determined by the Administration on a case-by-case basis.

Paragraph (c) is new paragraph that expresses in slightly different terms a provision contained both in the 1980 rule and the NPRM. If the Administration is uncertain whether the proposed changes to the project would result in significant environmental impacts, it may require the applicant to prepare an EA or environmental studies to aid in determining the significance of the effects. An EA would be appropriate where a number of different environmental effects need to be assessed and, in the Administration's view, there is uncertainty as to the significance of these effects. Also, an EA is warranted if the Administration feels that an examination of alternative routes, sites, or designs (beyond the normal consideration of design options as the project is being refined) might identify ways to avoid or mitigate probable adverse effects. If these effective are found to be not significant, the Administration will document its decision with a notation to the files for projects where environmental studies were prepared and with a FONSI for projects where an EA was prepared.

Several commenters objected to the paragraph in the NPRM which described circumstances under which supplemental EISs may be needed for UMTA's major investment projects. The concern was that this would add to an already lengthy EIS process. This provision has been modified and retained as paragraph (e). It does not require that supplements be prepared in all cases; it gives UMTA the discretion to prepare such a document in those cases where a substantial body of new information relevant to environmental concerns has been developed.

Although it is similar to tiering in that the environmental focus is sharpened as project details are developed, a

supplement eliminates the need to prepare two separate draft and final EISs as in tiering. The UMTA will continue to require a draft EIS at an early stage of project planning for major investments (i.e., alternative analyses); thus, we want to preserve the option of preparing a supplemental draft EIS when circumstances dictate.

Section 771.129(b) of the 1980 regulation stated that a decision to prepare a supplemental EIS does not require withdrawal of the previous approvals for those aspects of the proposed action not directly affected by the changed condition or new information. While the 1980 regulation was silent on whether activities already in progress under the prior approval should be suspended, it has generally been held that such activities need not be suspended. In addition, it has been held that new approvals of activities outside the scope of the supplemental EIS may be granted while a supplemental EIS is being processed.

Provisions have been added to paragraph (f) specifically to permit these practices. These provisions apply only to supplemental EISs of limited scope. Where the supplemental EIS requires a comprehensive reexamination of the entire project or more than a limited portion of the project, then the Administration would suspend any activities that may have an adverse environmental impact or prejudice the selection of reasonable alternatives.

Section 771.131. Emergency action procedures. This section is unchanged from the NPRM.

Section 771.133. Compliance with other requirements. This section is unchanged from the NPRM.

Section 771.135. Section 4(f) (49 U.S.C. 303). This section sets forth the procedures for applying section 4(f). There have been few substantive changes made from the 1980 regulation. Those that have been made are designed to give the Administration more flexibility in dealing with particular actions or to clarify existing requirements. We do not believe that any of the changes diminish the substantive protection provided section 4(f) sites.

Numerous comments were received on this section. To a large extent, these comments urged the Administration to narrow the situations in which section 4(f) would apply. For example, some commenters expressed frustration with the application for section 4(f) requirements to acquisition of minor amounts of land resulting in little or no impact on the site. The legislative history of section 4(f) makes clear that the "nibbling away" of section 4(f) lands by repeated minor acquisition was of primary concern to Congress. As a result, the DOT and the courts have always taken the position that even minor takings require the preparation of a section 4(f) document.

Paragraph (c) has been revised to emphasize that the "entire resoure" must be found to be not significant before the Administration can determine that section 4(f) requirements are not applicable. Furthermore, determination that an entire area is not significant is subject to review by the Administration prior to a determination that section 4(f) requirements are not applicable. This has been a longstanding Administration practice and the change in the regulation states existing practice.

Paragraph (d) addresses the application of section 4(f) to publicly owned lands managed for multiple use. Typically, multiple use management is applied to the natural resources on large tracts of land where such resources can serve a variety of needs. Section 4(f) will apply only to those parts designated or being used for park, recreation, or wildlife refuge purposes. It should be noted that the multiple-use concept does not apply within areas which have been designated as parks, recreation areas, or wildlife and waterfowl refuges. Section 4(f) applies throughout such areas. Historic sites were included in this paragraph in the NPRM but have been eliminated in the final regulation because it was felt that this was inconsistent with the approach for identifying historic sites in paragraph (e). In addition, paragraph (d) has been revised from the NPRM to state more clearly the procedures for applying section 4(f) to multiple use lands

Paragraph (f) clarifies existing FHWA and UMTA practices on the application of section 4(f) to existing transportation facilities. Examples include highway bridges, railroad stations, and terminal buildings which are on or eligible for the National Register Historic Places and proposed for improvement with Federal funds. Most of the commenters on this paragraph favored the proposed provision. The NPRM indicated that section 4(f) requirements did not apply to "work" on transportation facilities under certain circumstances. The final regulation clarifies those circumstances and substitutes for "work" the term "restoration, rehabilitation or maintenance" of transportation facilities. The intention of this change is to better define the key concept "use."

The overriding purpose of section 4(f) was to protect certain publicly owned lands and historic sites from road building and other projects, except in extraordinary circumstances. Toward that end, section 4(f) restricts the approval of projects which require the "use" of certain publicly owned parks and recreation areas and any historic sites. The applicability of section 4(f) in the first instance, therefore, turns on whether a project requires "use" of the land in question. Courts construing the term "use" under section 4(f) have focused on whether the proposed project actually takes or significantly adversely affects the site in question. Accordingly, UMTA and FHWA believe that if a project involves a facility that is already dedicated to transportation purposes (so there is no taking), and does not adversely affect the historic qualities of that facility, then the project does not "use" the facility within the meaning of section 4(f). If there is no use under section 4(f), its requirements do not apply. This construction is consistent with the purpose of section 4(f) and with case law on this issue. Accordingly, the Administration will evaluate any proposed restoration, rehabilitation or maintenance activities of transportation facilities that are on or eligible for the National Register to determine if the criteria of paragraph (f) are met. If those criteria are met, then the work may proceed without a section 4(f) evaluation.

One commenter described paragraph (f) as having alternative criteria. This is incorrect. Both criteria must be met in order for the paragraph to apply.

Some commenters thought paragraph (f) confused the responsibilities of UMTA and FHWA under section 4(f) with our responsibilities under section 106 of the National Historic Preservation Act. The UMTA and FHWA are well aware that section 4(f) and section 106 have distinct requirements. However, in our experience, there is overlap between the analyses necessary to meet the requirements of sections 4(f) and 106. The UMTA and the FHWA's objective is to use a coordinated approach while retaining the distinct requirements of sections 4(f) and 106. If a project will adversely affect the historic qualities of the transportation facility, then the project will require the use of the facility under section 4(f), and the requirements of that provision will apply, i.e. the Administration will evaluate avoidance alternatives and measures to minimize harm to the degree necessary to make the deteminations required by paragraph (a). At the same time the Administration will also comply with the separate, consultation requirements of Section 106.

One commenter suggested that paragraph (f) should apply to all section 4(f) properties, not just transportation

facilities. However, the rationale for paragraph (f) only applies to transportation facilities. Therefore, the application of paragraph (f) remains limited to transportation facilities.

Paragraph (g) deals with the application of section 4(f) to archeological resources. Whether or not section 4(f) applies to such resources will depend primarily on whether the value of the resource can best be realized through a data recovery program. The degree to which the value of the resource is tied to a particular site must also be considered. These determinations are always made in consultation with the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP).

If it is decided, after consulting the SHPO and the ACHP, that data recovery is appropriate and there is no need to preserve the resource in place, section 4(f) will not apply. However, section 4(f) will apply in case where date recovery is deemed appropriate, and, in addition, there is an overriding concern to preserve a major portion of the resource in place, e.g., for the purpose of public interpretation.

If data recovery is determined to be inappropriate, the application of section 4(f) will depend on the reason underlying this determination. If preservation in place is the paramount concern or if it is determined that there are not adequate techniques to properly recover the resource, section 4(f) will apply. However, if a data recovery program is deemed inappropriate becasue the site has minimal value in terms of scientific research, section 4(f) would not apply. This latter situation often arises when a proposed transportation project would affect a number of sites all of which will reveal the same information. Where an adequate data recovery program focuses on a representative site or sites, it may be determined that the remaining sites would yield no further values. Thus section 4(f) would not apply.

In reaching judgments on the value of the archeological resource, the desirability and feasibility of a data recovery plan, and the need for preservation in place, the views of the SHPO and the ACHP will be given substantial deference. The intent of this provision is not to unnecessarily narrow the application of section 4(f) when dealing with archeological sites, but, rather, to apply the protections of section 4(f) to the situations for which they were originally intended. Frequently, the greatest value of the resource can be realized through data recovery. In those cases the primary mandate of section 4(f)—to investigate every feasible and prudent alternative to avoid the site—would serve no useful purpose.

Paragraph (g) on archeological properties also retains a provision in the 1980 regulation concerning the discovery of archeological resources during project construction. Where section 4(f) applies, the section 4(f) process will be expedited. Noting that late designation of historically significant properties has posed problems in the past by invoking section 4(f) protection late in project development, several commenters proposed cut-off points after which a property newly designated for the National Register of Historic Places would not be afforded section 4(f) protection. Paragraph (h) deals with late designations of parks, recreational areas, and historic sites. With respect to historic and cultural properties, the regulation establishes an affirmative responsibility of the Administration and the applicant to identify historic properties on or eligible for the National Register of Historic Places. This is to be done early in the NEPA compliance process; thus, it is not expected that there will be late identification of historic buildings or structures. However, unidentified archeological resources do pose problems and paragraph (g) sets forth an expedited approach for these cases.

Another commenter found the regulation unclear as to how properties "on or eligible for the National Register" would be identified, and questioned whether only those properties known to the SHPO would be considered. Particularly where large projects are concerned, FHWA and UMTA, in cooperation with the applicant, will undertake a survey to identify properties which are potentially eligible for the National Register. The Administration or the applicant will seek assistance from the SHPO in this identification effort but a State register or list of historic properties provided by State and local officials does not relieve FHWA or UMTA from the need to undertake a comprehensive inventory. If the SHPO indicates that an adequate inventory of the area has already been completed, this will normally satisfy Federal requirements.

A sentence has been added to paragraph (i) in recognition of FHWA's use of programmatic section 4(f) evaluations. In such cases, coordination and documentation are usually accomplished in two phases. The first phase, the development of the programmatic section 4(f) evaluation, entails coordination with interested agencies and organizations, and culminates in the issuance of a document (the programmatic section 4(f) evaluation) which defines the criteria and procedures for its use and contains requisite legal findings. The second phase, the use of the programmatic evaluation on a specific project, involves coordination with the officials with jurisdiction over the section 4(f) resource in question and documentation sufficient to demonstrate that the procedures set up by the programmatic evaluation has been followed. The UMTA currently has no plans to issue any programmatic section 4(f) evaluations.

Paragraph (n) adopts a provision set forth at § 771.133(m) of the NPRM. It emphasizes that the decision to prepare a supplemental environmental document must be made pursuant to § 771.130 of this regulation, independent of any decision to prepare new or separate section 4(f) documentation. The mere change in legal status of an area to which section 4(f) applies does not require such a supplemental document if the environmental impacts of the action on the area or the site have already been evaluated. Similarly, changes in the action which may generate additional section 4(f) requirements would not also require supplemental environmental documentation if the changes were not environmentally significant.

Paragraph (n) has also been modified to clarify that project activities need not be suspended and that new project approvals may be granted during the preparation of a separate section 4(f) evaluation when it is prepared late in project development. The Adminstration will hold in abeyance those aspects of the project that may prejudice the consideration of avoidance alternatives or measures to minimize harm, but may proceed with other elements of the project.

Section 771.137. International actions. This portion of the regulation has been taken from DOT Order 5610.1C. The Administration did not receive any comments on this section. However, certain editorial changes were made to clarify the application of this section to FHWA and UMTA programs.

Section 771.111(h) Public Involvement. On January 31, 1985, the FHWA published at 50 FR 4526, Docket No. 85–12, a NPRM; amendment and rescission of public involvement regulations. The purpose of this proposal was to eliminate confusing regulatory duplication as part of FHWA's overall efforts to institute a streamlined environmental process in which public involvement is fully integrated with

other project development and environmental procedures.

The FHWA has had two major regulations which pertain to public involvement. Detailed requirements for public hearings and location and design approval appear in 23 CFR Part 790. Beginning in 1974, the FHWA provided an alternative process for public involvement/public hearings and project location approval. This alternative process has given the States more flexibility in developing public involvement programs which are better integrated into the States' project development processes.

In order to avoid the confusion and inefficiency of two separate, but duplicative public involvement regulations, this final rule rescinds 23 CFR Part 790 and consolidates in 23 CFR 771.111(h) all regulatory requirements for public involvement in the development of Federal-aid highway projects. To allow the fewer than 10 States still conducting public hearings under 23 CFR Part 790 time to adopt new public involvement/public hearing procedures which satisfy the requirements of 23 CFR 771.111(h), the effective date of the rescission of Part 790 has been delayed 1 year after the publication of this notice in the Federal Register.

In addition, individual public involvement requirements appear at 23 CFR 650.109. The FHWA is consolidating all public involvement requirements in 23 CFR 771.111(h). Thus, § 650.109 is rescinded as a technical amendment in this final notice. This will remove the specific requirement by FHWA that significant floodplain encroachments be identified in public hearing notices. Section 771.111(h)(2)(iv) has been modified to require that public hearing notices provide information required to comply with public involvement requirements of other laws, Executive Orders and regulations. This would cover the requirement for a public notice of encroachments as required by Executive Order 11988, "Floodplain Management." In addition, FHWA plans to issue technical guidance to ensure that notice of encroachment is provided as part of the public notice.

The FHWA believes that 23 CFR 771.111(h), as amended in this final rule, will result in better public involvement. It more clearly encourages early identification of issues, early consultation and continuing coordination with concerned members of the public, and early resolution of issues.

No major changes are being made in existing programs, policies, and procedures with respect to public involvement or design approval. The rescission of 23 CFR Part 790 does not in any manner eliminate the requirements for design approvals under 23 U.S.C. 106, 109, and 112. Design submissions and approvals to meet these requirements are carried out according to procedures developed by the FHWA and the State highway agencies. These procedures have been tailored to fit the specific project-development processes of each State highway agency.

Eight comments, all from State highway agencies, were received on the NPRM. The FHWA has given the following consideration to these comments.

Three commenters supported the rescission of 23 CFR Part 790 and the simplification of FHWA's regulations concerning public involvement.

In the NPRM, the FHWA proposed linking the conditions triggering a required public hearing to the classification of projects according to their environmental documentation. However, two commenters correctly pointed out that one of the proposed public hearing criteria (Class II and III projects with significant environmental effects) in 23 CFR 771.111(h)(2) was inconsistent with the definitions of Class II and Class III projects found in 23 CFR 771.115. The FHWA had decided to return the wording of the criteria triggering a required public hearing to the four criteria previously found in 23 CFR 771.111(h). This will assure that there is no change in the opportunities for a public hearing as a result of the present rulemaking.

Two SHAs observed that the criteria for public hearings on Class III projects are less stringent than their current procedures which require a public hearing for all Class III projects. This final rule states minimum Federal criteria for public involvement on Federal-aid highway projects. If, in its public involvement/public hearing procedures, a State chooses to exceed these Federal requirements, that is the State's prerogative. Thus, in their public involvement/public hearing procedures States may require public hearings for all Class III projects.

One western State highway agency expressed concern that public hearings for Class II and III projects requiring substantial amounts of right-of-way resulted in some hearings of little or no public interest, since the projects involved only one or two landowners. The commenter asked that "substantial" right-of-way acquisition be replaced by "sensitive" right-of-way acquisition. The FHWA believes the regulation provides for this situation through the public hearing opportunity. The State highway agency may advertise an opportunity for a public hearing. Except to the extent required by 23 U.S.C. 128, if a project does not arouse public interest, a public hearing need not be held.

It was suggested by two commenters that requiring submission to the FHWA of a written, verbatim transcript is unnecessary for some public hearings. The revised regulation simply retains and repeats the statutory requirements of 23 U.S.C. 128 for transcripts.

One commenter expressed concern that the reevaluation of a project's public involvement activities not become a separate procedural reevaluation in addition to the substantive reevaluation of the project's environmental document under 23 CFR 771.129. The NPRM may not have been clear that the reevaluation of public involvement is intended to be based on the project reevaluation. The wording of the regulation has been changed to make this relationship clearer.

In addition, the FHWA has clarified wording at several points and deleted reference to the inclusion of other agencies and governmental jurisdictions in public involvement/public hearing procedures and to other agencies receiving notices of public hearings (23 CFR 771.111(h)(2) (ii) and (iv)). Coordination with other agencies and governmental jurisdictions is addressed in 23 CFR 771.111(a), 771.119, and 771.123 (c) and (g). Written statements from the public to accompany the public hearing transcript have been more clearly defined in 23 CFR 771.111(h)(2)(vi). Publication in the Federal Register of notices of availability of new public involvement/public hearing procedures has been eliminated as not being an effective way to reach residents of specific States. The FHWA encourages States to use appropriate ways of communicating the provisions of their public involvement/public hearing procedures to residents. Separate reference to mitigation measures as an element of the public hearing presentation has also been deleted (23 CFR 771.111(h)(2)(v)(D)) because the beneficial impacts of mitigation measures are included in the required discussion of impacts.

As a result of the rescission of 23 CFR Part 790 and amendments to 23 CFR 771.111(h), those few States currently under 23 CFR 790 must submit procedures for approval under Section 771.111(h); however, these States will at the same time have the opportunity to gain flexibility to conduct public hearings in a way which is compatible with the State's own project development process. The remaining

States for which alternate public involvement/public hearing procedures already have been approved pursuant to 23 CFR 771 are not required to adopt new public involvement/public hearing procedures.

The public involvement procedures developed pursuant to this section must be sufficient to meet the public hearing and other public involvement requirements imposed by law or regulation on FHWA. Furthermore, in implementing this section, the FHWA urges the States, including States with procedures already approved by FHWA, to consider the public involvement needs of other State and Federal agencies with approval, permitting or consultation responsibilities for highway actions. The FHWA has engaged in extensive discussion with Federal agencies having such responsibilities in an effort to find ways to expedite the highway approval process. One of the most effective ways of accomplishing this goal is to avoid multiple and other duplicative public hearings or other public meetings. Section 771.111(h)(2)(i) should be read broadly to encourage the States to adopt public involvement proceudres which accommodate the needs of as many other involved State and Federal agencies as practicable.

Implementation

Other Federal agencies are often involved in reviewing the environmental effects of UMTA and FHWA actions. It is important that these agencies have an opportunity to provide feedback on how well they perceive that interagency coordination is working under the new regulation. To give them this opportunity, FHWA will sponsor a series of meetings, region by region, to air issues of mutual concern pertaining to this regulation. FHWA plans to hold these meetings about a year to a year and a half after this regulation becomes effective.

Regulatory Impacts

The Administrators of FHWA and UMTA have determined that this document does not contain a major rule as defined by Executive Order 12291. However, it is a significant rulemaking action under Department of Transportation regulatory policies and procedures because important departmental policy as implemented by FHWA and UMTA is involved.

A regulatory evaluation has been prepared and is available for inspection in the FHWA docket room. A copy may be obtained from Mr. Frederick Skaer or Mr. A. Joseph Ossi at the addresses provided under the heading "For Further Information Contact."

The amendments impose no additional requirements. The anticipated impacts include the elimination of duplicative requirements and the increase in decisionmaking authority for the Administration's field offices. By streamlining the project development process, the amendments should reduce project development time and costs. Economic savings will be realized through changes which permit more efficient processing of legally required documentation.

With regard to the public involvement requirements which were the subject of a separate NPRM (50 FR 4526), since there will be no substantial change in the approach FHWA has traditionally employed in dealing with public involvement, it is anticipated that this action will not have a significant economic impact. The economic impacts, if any, would result in administrative savings caused by the elimination of procedural duplication.

The impact of the other amendments will fall primarily on Federal and State and local governments. It is possible that application of this rule could have an adverse economic impact on small governmental jurisdictions that must prepare environmental documents. However, the potential impacts derive primarily from NEPA and not from the procedures contained in this rule. For these reasons and under the criteria of the Regulatory Flexibility Act, FHWA and UMTA hereby certify that this document will not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the information collection requirements contained in this document are being submitted for approval to the Office of Management and Budget (OMB).

List of Subjects in 23 CFR 771 and 790 and 49 CFR 622

Environmental impact statements, Grant programs—transportation, Highways and roads, Highway location and design, Public hearings, Reporting and recordkeeping requirements, Mass transportation, Historic Preservation, Parks, Public lands—multiple use, Recreation areas, Wildlife refuges.

(Catalog of Federal Domestic Assistance Program Numbers: 20.205, Highway Research, Planning and Construction; 20.500, Urban Mass Transportation Capital Grants; 20.501, Urban Mass Transportation Capital Improvement Loans; 20.504, Urban Mass Transportation Technology; 20.505, Urban Mass Transportation Technical Studies Grants; 20.506, Urban Mass Transportation Demonstration Grants; 20.507, Urban Mass Transportation Capital and Operating Assistance Formula Grants; 20.509, Public Transportation for Rural and Small Urban Areas; 20.510, Urban Mass Transportation Planning Methods, Research and Development; 23.003, Appalachian Development Highway Systems; 23.008, Appalachian Local Access Roads. The regulation implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

In consideration of the foregoing, Chapter VI of Title 49 and Chapter I of Title 23, Code of Federal Regulations, are amended as set forth below.

Issued on August 21, 1987.

Robert E. Farris,

Deputy Federal Highway Administrator.

Alfred A. DelliBovi,

Deputy Administrator, Urban Mass Transportation, Administration.

1. Subpart A of Part 622 of 49 CFR is revised to read as follows:

TITLE 49—TRANSPORTATION

CHAPTER VI—URBAN MASS TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 622—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Subpart A—Environmental Procedures

Sec.

622.101 Cross-reference to procedures.

Authority: 42 U.S.C. 4321 *et seq.*; 49 U.S.C. 1601 *et seq.*; 49 CFR 1.51.

Subpart A—Environmental Procedures

§ 622.101 Cross-reference to procedures.

The procedures for complying with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and related statutes, regulations, and orders are set forth in Part 771 of Title 23 of the Code of Federal Regulations.

2. Part 771 of 23 CFR is revised to read as follows:

TITLE 23—HIGHWAY

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 771—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Sec.

771.101 Purpose.
771.103 [Reserved]
771.105 Policy.
771.107 Definitions.
771.109 Applicability and responsibilities.
771.111 Early coordination, public involvement, and project development.
771.113 Timing of Administration activities.

Sec.

Authority: 42 U.S.C. 4321 *et seq.*; 23 U.S.C. 109, 128, 138 and 315; 49 U.S.C. 303(c), 1602(d), 1604(h), 1604(i), and 1610; 40 CFR Part 1500 *et seq.*; 49 CFR 1.48(b) and 1.51.

§ 771.101 Purpose.

This regulation prescribes the policies and procedures of the Federal Highway Administration (FHWA) and the Urban Mass Transportation Administration (UMTA) for implementing the National Environmental Policy Act of 1969 as amended (NEPA), and the regulation of the Council on Environmental Quality (CEQ), 40 CFR Parts 1500–1508. This regulation sets forth all FHWA, UMTA, and Department of Transportation (DOT) requirements under NEPA for the processing of highway and urban mass transportation projects. This regulation also sets forth procedures to comply with 23 U.S.C. 109(h), 128, 138, and 49 U.S.C. 303, 1602(d), 1604(h), 1604(i), 1607a, 1607a–1 and 1610.

§ 771.103 [Reserved]

§ 771.105 Policy.

It is the policy of the Administration that:

(a) To the fullest extent possible, all environmental investigations, reviews, and consultations be coordinated as a single process, and compliance with all applicable environmental requirements be reflected in the environmental document required by this regulation.[1]

(b) Alternative courses of action be evaluated and decisions be made in the best overall public interest based upon a balanced consideration of the need for safe and efficient transportation; of the social, economic, and environmental impacts of the proposed transportation improvement; and of national, State, and local environmental protection goals.

(c) Public involvement and a systematic interdisciplinary approach be essential parts of the development process for proposed actions.

(d) Measures necessary to mitigate adverse impacts be incorporated into the action. Measures necessary to mitigate adverse impacts are eligible for Federal funding when the Administration determines that:

(1) The impacts for which the mitigation is proposed actually result from the Administration action; and

(2) The proposed mitigation represents a reasonable public expenditure after considering the impacts of the action and the benefits of the proposed mitigation measures. In making this determination, the Administration will consider, among other factors, the extent to which the proposed measures would assist in complying with a Federal statute, Executive Order, or Administration regulation or policy.

(e) Costs incurred the applicant for the preparation of environmental documents requested by the Administration be eligible for Federal assistance.

(f) No person, because of handicap, age, race, color, sex, or national origin, be excluded from participating in, or denied benefits of, or be subject to discrimination under any Administration program or procedural activity required by or developed pursuant to this regulation.

§ 771.107 Definitions.

The definitions contained in the CEQ regulation and in Titles 23 and 49 of the United States Code are applicable. In addition, the following definitions apply.

(a) *Environmental studies*—The investigations of potential environmental impacts to determine the environmental process to be followed and to assist in the preparation of the environmental document.

(b) *Action*—A highway or transit project proposed for FHWA or UMTA funding. It also includes activities such as joint and multiple use permits, changes in access control, etc., which may or may not involve a commitment of Federal funds.

(c) *Administration action*—The approval by FHWA or UMTA of the applicant's request for Federal funds for construction. It also includes approval of activities such as joint and multiple use permits, changes in access control, etc., which may or may not involve a commitment of Federal funds.

(d) *Administration*—FHWA or UMTA, whichever is the designated lead agency for the proposed action.

(e) *Section 4(f)*—Refers to 49 U.S.C. 303 and 23 U.S.C. 138.[2]

§ 771.109 Applicability and responsibilities.

(a)(1) The provisions of this regulation and the CEQ regulation apply to actions where the Administration exercises sufficient control to condition the permit or project approval. Actions taken by the applicant which do not require Federal approvals, such as preparation of a regional transportation plan are not subject to this regulation.

(2) This regulation does not apply to, or alter approvals by the Administration made prior to the effective date of this regulation.

(3) Environmental documents accepted or prepared by the Administration after the effective date of this regulation shall be developed in accordance with this regulation.

(b) It shall be the responsibility of the applicant, in cooperation with the Administration to implement those mitigation measures stated as commitments in the environmental documents prepared pursuant to this regulation. The FHWA will assure that this is accomplished as a part of its program management responsibilities that include reviews of designs, plans, specifications, and estimates (PS&E), and construction inspections. The UMTA will assure implementation of committed mitigation measures through incorporation by reference in the grant agreement, followed by reviews of designs and contruction inspections.

(c) The Administration, in cooperation with the applicant, has the responsibility to manage the preparation of the appropriate environmental document. The role of the applicant will be determined by the Administration accordance with the CEQ regulation:

(1) *Statewide agency.* If the applicant is a public agency that has statewide jurisdiction (for example, a State highway agency or a State department of transportation) or is a local unit of government acting through a statewide agency, and meets the requirements of section 102(2)(D) of NEPA, the applicant may prepare the environmental impact statement (EIS) and other environmental documents with the Administration furnishing guidance, participating in the

[1] FHWA and UMTA have supplementary guidance on the format and content of NEPA documents for their programs. This includes a list of various environmental laws, regulations, and Executive Orders which may be applicable to projects. The FHWA Technical Advisory T6640.8A, October 30, 1987, and the UMTA supplementary guidance are available from the respective FHWA and UMTA headquarters and field offices as prescribed in 49 CFR Part 7, Appendices D and G.

[2] Section 4(f), which protected certain public lands and all historic sites, technically was repealed in 1983 when it was codified, without substantive change, as 49 U.S.C. 303. This regulation continues to refer to section 4(f) because it would create needless confusion to do otherwise; the policies section 4(f) engendered are widely referred to as "section 4(f)" matters. A provision with the same meaning is found at 23 U.S.C. 138 and applies only to FHWA actions.

preparation, and independently evaluating the document. All FHWA applicants qualify under this paragraph.

(2) *Joint lead agency.* If the applicant is a public agency and is subject to State or local requirements comparable to NEPA, then the Administration and the applicant may prepare the EIS and other environmental documents as joint lead agencies. The applicant shall initially develop substantive portions of the environmental document, although the Administration will be responsible for its scope and content.

(3) *Cooperating Agency.* Local public agenices with special expertise in the proposed action may be cooperating agencies in the preparation of an environmental document. An applicant for capital assistance under the Urban Mass Transportation Act of 1964, as amended (UMT Act), is presumed to be a cooperating agency if the conditions in paragraph (c) (1) or (2) of this section do not apply. During the environmental process, the Administration will determine the scope and content of the environmental document and will direct the applicant, acting as a cooperating agency, to develop information and prepare those portions of the document concerning which it has special expertise.

(4) *Other.* In all other cases, the role of the applicant is limited to providing environmental studies and commenting on environmental documents. All private institutions or firms are limited to this role.

§ 771.111 Early coordination, public involvement, and project development.

(a) Early coordination with appropriate agencies and the public aids in determining the type of environmental document an action requires, the scope of the document, the level of analysis, and related environmental requirements. This involves the exchange of information from the inception of a proposal for action to preparation of the environmental document. Applicants intending to apply for funds should notify the Administration at the time that a project concept is identified. When requested, the Administration will advise the applicant, insofar as possible, of the probable class of action and related environmental laws and requirements and of the need for specific studies and findings which would normally be developed concurrently with the environmental document.

(b) The Administration will identify the probable class of action as soon as sufficient information is available to identify the probable impacts of the action. For UMTA, this is normally no later than the review of the transportation improvement program (TIP) and for FHWA, the approval of the 105 program (23 U.S.C. 105).

(c) When FHWA and UMTA are involved in the development of joint projects, or when FHWA or UMTA acts as a joint lead agency with another Federal agency, a mutually acceptable process will be established on a case-by-case basis.

(d) During the early coordination process, the Administration, in cooperation with the applicant, may request other agencies having special interest or expertise to become cooperating agencies. Agencies with jurisdiction by law must be requested to become cooperating agencies.

(e) Other States, and Federal land management entities, that may be significantly affected by the action or by any of the alternatives shall be notified early and their views solicited by the applicant in cooperation with the Administration. The Administration will prepare a written evaluation of any significant unresolved issues and furnish it to the applicant for incorporation into the environmental assessment (EA) or draft EIS.

(f) In order to ensure meaningful evaluation of alternatives and to avoid commitments to transportation improvements before they are fully evaluated, the action evaluated in each EIS or finding of no significant impact (FONSI) shall:

(1) Connect logical termini and be of sufficient length to address environmental matters on a broad scope;

(2) Have independent utility or independent significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and

(3) Not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

(g) For major transportation actions, the tiering of EISs as discussed in the CEQ regulation (40 CFR 1502.20) may be appropriate. The first tier EIS would focus on broad issues such as general location, mode choice, and areawide air quality and land use implications of the major alternatives. The second tier would address site-specific details on project impacts, costs, and mitigation measures.

(h) For the Federal-aid highway program:

(1) Each State must have procedures approved by the FHWA to carry out a public involvement/public hearing program pursuant to 23 U.S.C. 128 and 40 CFR Parts 1500–1508.

(2) State public involvement/public hearing procedures must provide for:

(i) Coordination of public involvement activities and public hearings with the entire NEPA process.

(ii) Early and continuing opportunities during project development for the public to be involved in the identification of social, economic, and environmental impacts, as well as impacts associated with relocation of individuals, groups, or institutions.

(iii) One or more public hearings or the opportunity for hearing(s) to be held by the State highway agency at a convenient time and place for any Federal-aid project which requires significant amounts of right-of-way, substantially changes the layout or functions of connecting roadways or of the facility being improved, has a substantial adverse impact on abutting property, otherwise has a significant social, economic, environmental or other effect, or for which the FHWA determines that a public hearing is in the public interest.

(iv) Reasonable notice to the public of either a public hearing or the opportunity for a public hearing. Such notice will indicate the availability of explanatory information. The notice shall also provide information required to comply with public involvement requirements of other laws, Executive Orders, and regulations.

(v) Explanation at the public hearing of the following information, as appropriate:

(A) The project's purpose, need, and consistency with the goals and objectives of any local urban planning.

(B) The project's alternatives, and major design features.

(C) The social, economic, environmental, and other impacts of the project.

(D) The relocation assistance program and the right-of-way acquisition process.

(E) The State highway agency's procedures for receiving both oral and written statements from the public.

(vi) Submission to the FHWA of a transcript of each public hearing and a certification that a required hearing or hearing opportunity was offered. The transcript will be accompanied by copies of all written statements from the public, both submitted at the public hearing or during an announced period after the public hearing.

(3) Based on the reevaluation of project environmental documents required by § 771.129, the FHWA and the State highway agency will determine whether changes in the project or new information warrant additional public involvement.

(4) Approvals or acceptances of public involvement/public hearing procedures prior to the publication date of this regulation remain valid.

(i) Applicants for capital assistance in the UMTA program achieve public participation on proposed projects by holding public hearings and seeking input from the public through the scoping process for environmental documents. For projects requiring EISs, a public hearing will be held during the circulation period of the draft EIS. For all other projects, an opportunity for public hearings will be afforded with adequate prior notice pursuant to 49 U.S.C. 1602(d), 1604(i), 1607a(f) and 1607a–1(d), and such hearings will be held when anyone with a significant social, economic, or environmental interest in the matter requests it. Any hearing on the action must be coordinated with the NEPA process to the fullest extent possible.

(j) Information on the UMTA environmental process may be obtained from: Director, Office of Planning Assistance, Urban Mass Transportation Administration, Washington, DC 20590. Information on the FHWA environmental process may be obtained from: Director, Office of Environmental Policy, Federal Highway Administration, Washington, DC 20590.

§ 771.113 Timing of Administration activities.

(a) The Administration in cooperation with the applicant will perform the work necessary to complete a FONSI or an EIS and comply with other related environmental laws and regulations to the maximum extent possible during the NEPA process. This work includes environmental studies, related engineering studies, agency coordination and public involvement. However, final design activities, property acquisition (with the exception of hardship and protective buying, as defined in § 771.117(d)), purchase of construction materials or rolling stock, or project construction shall not proceed until the following have been completed:

(1)(i) The action has been classified as a categorical exclusion (CE), or

(ii) A FONSI has been approved, or

(iii) A final EIS has been approved and available for the prescribed period of time and a record of decision has been signed;

(2) For actions proposed for FHWA funding, the FHWA Division Administrator has received and accepted the certifications and any required public hearing transcripts required by 23 U.S.C. 128;

(3) For activities proposed for FHWA funding, the programming requirements of 23 CFR Part 450, Subpart B, and 23 CFR Part 630, Subpart A, have been met.

(b) For FHWA, the completion of the requirements set forh in paragraph (a)(1) and (a)(2) of this section is considered acceptance of the general project location and concepts described in the environmental document unless otherwise specified by the approving official. However, such approval does not commit the Administration to approve any future grant request of fund the preferred alternative.

(c) Letters of Intent issued under the authority of section 3(a)(4) of the UMT Act are used by UMTA to indicate an intention to obligate future funds for multi-year capital transit projects. Letters of Intent will not be issued by UMTA until the NEPA process is completed.

§ 771.115 Classes of actions

There are three classes of actions which prescribe the level of documentation required in the NEPA process.

(a) *Class I (EISs).* Actions that significantly affect the environment require an EIS (40 CFR 1508.27). The following are examples of actions that normally required an EIS:

(1) A new controlled access freeway.

(2) A highway project of four or more lanes on a new location.

(3) New construction or extension of fixed rail transit facilities (e.g., rapid rail, light rail, commuter rail, automated guideway transit).

(4) New construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing highway facility.

(b) *Class II (CEs).* Actions that do not individually or cumulative have a significant environmental effect are excluded from the requirement to prepare an EA or EIS. A specific list of CEs normally not requiring NEPA documentation is set forth in § 771.117(c). When appropriately documented, additional projects may also qualify as CEs pursuant to § 771.117(d).

(c) *Class III (EAs).* Actions in which the significance of the environmental impact is not clearly estabilished. All actions that are not Class I or II are Class III. All actions in this class require the preparation of an EA to determine the appropriate environmental document required.

§ 771.117 Categorical exclusions.

(a) Categorical exclusions (CEs) are actions which meet the definition contained in 40 CFR 1508.4, and, based on past experience with similar actions, do not involve significnt environmental impacts. They are actions which: do not induce significant impacts to planned growth or land use for the area; do not require the relocation of significant numbers of people; do not have a significant impact on any natural, cultural, recreational, historic or other resource; do not involve significant air, noise, or water quality impacts; do not have significant impacts on travel patterns; or do not otherwise, either individually or cumulatively, have any significant environmental impacts.

(b) Any action which normally would be classified as a CE but could involve unusual circumstances will require the Administration, in cooperation with the applicant, to conduct appropriate environmental studies to determine if the CE classification is proper. Such unusual circumstances include:

(1) Significant environmental impacts;

(2) Substantial controversy on environmental grounds;

(3) Significant impact on properties protected by section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act; or

(4) Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action.

(c) The following actions meet the criteria for CEs in the CEQ regulation (section 1508.4) and § 771.117(a) of this regulation and normally do not require any further NEPA approvals by the Administration:

(1) Activities which do not involve or lead directly to construction, such as planning and technical studies; grants for training and research programs; research activities as defined in 23 U.S.C. 307; approval of a unified work program and any findings required in the planning process pursuant to 23 U.S.C. 134; approval of statewide programs under 23 CFR Part 630; approval of project concepts under 23 CFR Part 476; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system.

(2) Approval of utility installations along or across a transportation facility.

(3) Construction of bicycle and pedestrian lanes, paths, and facilities.

(4) Activities included in the State's "highway safety plan" under 23 U.S.C. 402.

(5) Transfer of Federal lands pursuant to 23 U.S.C. 317 when the subsequent action is not an FHWA action.

(6) The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.

(7) Landscaping.

(8) Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.

(9) Emergency repairs under 23 U.S.C. 125.

(10) Acquisition of scenic easements.

(11) Determination of payback under 23 CFR Part 480 for property previously acquired with Federal-aid participation.

(12) Improvements to existing rest areas and truck weigh stations.

(13) Ridesharing activities.

(14) Bus and rail car rehabilitation.

(15) Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.

(16) Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.

(17) The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are within a CE.

(18) Track and railbed maintenance and improvements when carried out within the existing right-of-way.

(19) Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.

(20) Promulgation of rules, regulations, and directives. (d) Additional actions which meet the criteria for a CE in the CEQ regulations (40 CFR 1508.4) and paragraph (a) of this section may be designated as CEs only after Administration approval. The applicant shall submit documentation which demonstrates that the specific conditions or criteria for these CEs are satisfied and that significant environmental effects will not result. Examples of such actions include but are not limited to:

(1) Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing).

(2) Highway safety or traffic operations improvement projects including the installation of ramp metering control devices and lighting.

(3) Bridge rehabilitation, reconstruction or replacement or the construction of grade separation to replace existing at-grade railroad crossings.

(4) Transportation corridor fringe parking facilities.

(5) Construction of new truck weigh stations or rest areas.

(6) Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.

(7) Approvals for changes in access control.

(8) Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.

(9) Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.

(10) Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.

(11) Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant noise impact on the surrounding community.

(12) Acquisition of land for hardship or protective purposes; advance land acquisition loans under section 3(b) of the UMT Act.[3] Hardship and protective buying will be permitted only for a particular parcel or a limited number of parcels. These types of land acquisition quality for a CE only where the acquisition will not limit the evaluation of alternatives, including shifts in alignment for planned construction projects, which may be required in the NEPA process. No project development on such land may proceed until the NEPA process has been completed.

(e) Where a pattern emerges of granting CE status for a particular type of action, the Administration will initiate rulemaking proposing to add this type of action to the lsit of categorical exclusions in paragraph (c) or (d) of this section, as appropriate.

§ 771.119 Environmental assessments.

(a) An EA shall be prepared by the applicant in consultation with the Administration for each action that is not a CE and does not clearly require the preparation of an EIS, or where the Administration believes an EA would assist in determining the need for an EIS.

(b) For actions that require an EA, the applicant, in consultation with the Administration, shall, at the earliest appropriate time, begin consultation with interested agencies and others to advise them of the scope of the project and to achieve the following objectives: determine which aspects of the proposed action have potential for social, economic, or environmental impact; identify alternatives and measures which might mitigate adverse environmental impacts; and identify other environmental review and consultation requirements which should be performed concurrently with the EA. The applicant shall accomplish this through an early coordination process (i.e., procedures under § 771.111) or through a scoping process. Public involvement shall be summarized and the results of agency coordination shall be included in the EA.

(c) The EA is subject to Administration approval before it is made available to the public as an Administration document. The UMTA applicants may circulate the EA prior to Administration approval provided that the document is clearly labeled as the applicant's document.

(d) The EA need not be circulated for comment but the document must be made available for public inspection at the applicant's office and at the appropriate Administration field offices in accordance with paragraphs (e) and (f) of this section. Notice of availability of the EA, briefly describing the action and its impacts, shall be sent by the

[3] Hardship acquisition is early acquisition of property by the applicant at the property owner's request to alleviate particular hardship to the owner, in contrast to thers, because of an inability to sell his property. This is justified when the property owner can document on the basis of health, safety or financial reasons that remaining in the property poses an undue hardship compared to others.

Protective acquisition is done to prevent imminent development of a parcel which is needed for a proposed transportation corridor or site. Documentation must clearly demonstrate that development of the land would preclude future transportation use and that such development is imminent. Advance acquisition is not permitted for the sole purpose of reducing the cost of property for a proposed project.

applicant to the affected units of Federal, State and local government. Notice shall also be sent to the State intergovernmental review contacts established under Executive Order 12372.

(e) When a public hearing is held as part of the application for Federal funds, the EA shall be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The notice of the public hearing in local newspapers shall announce the availability of the EA and where it may be obtained or reviewed. Comments shall be submitted in writing to the applicant or the Administration within 30 days of the availability of the EA unless the Administration determines, for good cause, that a different period is warranted. Public hearing requirements are as described in § 771.111.

(f) When a public hearing is not held, the applicant shall place a notice in a newspaper(s) similar to a public hearing notice and at a similar stage of development of the action, advising the public of the availability of the EA and where information concerning the action may be obtained. The notice shall invite comments from all interested parties. Comments shall be submitted in writing to the applicant or the Administration within 30 days of the publication of the notice unless the Administration determines, for good cause, that a different period is warranted.

(g) If no significant impacts are identified, the applicant shall furnish the administration a copy of the revised EA, as appropriate; the public hearing transcript, where applicable; copies of any comments received and responses thereto; and recommend a FONSI. The EA should also document compliance, to the extent possible, with all applicable environmental laws and Executive Orders, or provide reasonable assurance that their requirements can be met.

(h) When the Administration expects to issue a FONSI for an action described in § 771.115(a), copies of the EA shall be made available for public review (including the affected units of government) for a minimum of 30 days before the Administration makes its final decision (See 40 CFR 1501.4(e)(2).) This public availability shall be announced by a notice similar to a public hearing notice.

(i) If, at any point in the EA process, the Administration determines that the action is likely to have a significant impact on the environment, the preparation of an EIS will be required.

§ 771.121 Findings of no significant impact.

(a) The Administration will review the EA and any public hearing comments and other comments received regarding the EA. If the Administration agrees with the applicant's recommendations pursuant to § 771.119(g), it will make a separate written FONSI incorporating by reference the EA and any other appropriate environmental documents.

(b) After a FONSI has been made by the Administration, a notice of availability of the FONSI shall be sent by the applicant to the affected units of Federal, State and local government and the document shall be available from the applicant and the Administration upon request by the public. Notice shall also be sent to the State intergovernmental review contacts established under Executive Order 12372.

(c) If another Federal agency has issued a FONSI on an action which includes an element proposed for Administration funding, the Administration will evaluate the other agency's FONSI. If the Administration determines that this element of the project and its environmental impacts have been adequately identified and assessed, and concurs in the decision to issue a FONSI, the Administration will issue its own FONSI incorporating the other agency's FONSI. If environmental issues have not been adequately identified and assessed, the Administration will require appropriate environmental studies.

§ 771.123 Draft environmental impact statements.

(a) A draft EIS shall be prepared when the Administration determines that the action is likely to cause significant impacts on the environment. When the decision has been made by the Administration to prepare an EIS, the Administration will issue a Notice of Intent (40 CFR 1508.22) for publication in the **Federal Register.** Applicants are encouraged to announce the intent to prepare an EIS by apprpriate means at the local level.

(b) After publication of the Notice of Intent, the Administration, in cooperation with the applicant, will begin a scoping process. The scoping process will be used to identify the range of alternatives and impacts and the significant issues to be addressed in the EIS and to achieve the other objectives of 40 CFR 1501.7. For FHWA, scoping is normally achieved through public and agency involvement procedures required by § 771.111. For UMTA, scoping is achieved by soliciting agency and public responses to the action by letter or by holding scoping meetings. If a scoping meeting is to be held, it should be announced in the Administration's Notice of Intent and by appropriate means at the local level.

(c) The draft EIS shall be prepared by the Administration in cooperation with the applicant or, where permitted by law, by the applicant with appropriate guidance and participation by the Administration. The draft EIS shall evaluate all reasonable alternatives to the action and discuss the reasons why other alternatives, which may have been considered, were eliminated from detailed study. The draft EIS shall also summarize the studies, reviews, consultations, and coordination required by environmental laws or Executive Orders to the extent appropriate at this stage in the environmental process.

(d) An applicant which is a "statewide agency" may select a consultant to assist in the preparation of an EIS in accordance with applicable contracting procedures. Where the applicant is a "joint lead" or "cooperating" agency, the applicant may select a consultant, after coordination with the Administration to assure compliance with 40 CFR 1506.5(c). The Administration will select any such consultant for "other" applicants. (See § 771.109(c) for definitions of these terms.)

(e) The Administration, when satisfied that the draft EIS complies with NEPA requirements, will approve the draft EIS for circulation by signing and dating the cover sheet.

(f) A lead, joint lead, or a cooperating agency shall be responsible for printing the EIS. The initial printing of the draft EIS shall be in sufficient quantity to meet requirements for copies which can reasonably be expected from agencies, organizations, and individuals. Normally, copies will be furnished free of charge. However, with Administration concurrence, the party requesting the draft EIS may be charged a fee which is not more than the actual cost of reproducing the copy or may be directed to the nearest location where the statement may be reviewed.

(g) The draft EIS shall be circulated for comment by the applicant on behalf of the Administration. The draft EIS shall be made available to the public and transmitted to agencies for comment no later than the time the document is filed with the Environmental Protection Agency in accordance with 40 CFR 1506.9. The draft EIS shall be transmitted to:

(1) Public officials, interest groups, and members of the public known to have an interest in the proposed action or the draft EIS;

(2) Federal, State and local government agencies expected to have jurisdiction or responsibility over, or interest or expertise in, the action. Copies shall be provided directly to appropriate State and local agencies, and to the State intergovernmental review contacts established under Executive Order 12372; and

(3) States and Federal land management entities which may be significantly affected by the proposed action or any of the alternatives. These copies shall be accompanied by a request that such State or entity advise the Administration in writing of any disagreement with the evaluation of impacts in the statement. The Administration will furnish the comments received to the applicant along with a written assessment of any disagreements for incorporation into the final EIS.

(h) The UMTA requires a public hearing during the circulation period of all draft EISs. FHWA public hearing requirements are as described in § 771.111(h). Whenever a public hearing is held, the draft EIS shall be available at the public hearing and for a minimum of 15 days in advance of the public hearing. The availability of the draft EIS shall be mentioned, and public comments requested, in any public hearing notice and at any public hearing presentation. If a public hearing on an action proposed for FHWA funding is not held, a notice shall be placed in a newspaper similar to a public hearing notice advising where the draft EIS is available for review, how copies may be obtained, and where the comments should be sent.

(i) The **Federal Register** public availability notice (40 CFR 1506.10) shall establish a period of not less than 45 days for the return of comments on the draft EIS. The notice and the draft EIS transmittal letter shall identify where comments are to be sent.

(j) For UMTA funded major urban mass transportation investments, the applicant shall prepare a report identifying a locally preferred alternative at the conclusion of the Draft EIS circulation period. Approval may be given to begin preliminary engineering on the principal alternative(s) under consideration. During the course of such preliminary engineering, the applicant will refine project costs, effectiveness, and impact information with particular attention to alternative designs, operations, detailed location decisions and appropriate mitigation measures. These studies will be used to prepare the final EIS or, where appropriate, a supplemental draft EIS.

§ 771.125 Final environmental impact statements.

(a)(1) After circulation of a draft EIS and consideration of comments received, a final EIS shall be prepared by the Administration in cooperation with the applicant or, where permitted by law, by the applicant with appropriate guidance and participation by the Administration. The final EIS shall identify the preferred alternative and evaluate all reasonable alternatives considered. It shall also discuss substantive comments received on the draft EIS and responses thereto, summarize public involvement, and describe the mitigation measures that are to be incorporated into the proposed action. Mitigation measures presented as commitments in the final EIS will be incorporated into the project as specified in § 771.109(b). The final EIS should also document compliance, to the extent possible, with all applicable environmental laws and Executive Orders, or provide reasonable assurance that their requirements can be met.

(2) Every reasonable effort shall be made to resolve interagency disagreements on actions before processing the final EIS. If significant issues remain unresolved, the final EIS shall identify those issues and the consultations and other efforts made to resolve them.

(b) The final EIS will be reviewed for legal sufficiency prior to Administration approval.

(c) The Administration will indicate approval of the EIS for an action by signing and dating the cover page. Final EISs prepared for actions in the following categories will be submitted to the Administration's Headquarters for prior concurrence:

(1) Any action for which the Administration determines that the final EIS should be reviewed at the Headquarters office. This would typically occur when the Headquarters office determines that (i) additional coordination with other Federal, State or local governmental agencies is needed; (ii) the social, economic, or environmental impacts of the action may need to be more fully explored; (iii) the impacts of the proposed action are unusually great; (iv) major issues remain unresolved; or (v) the action involves national policy issues.

(2) Any action to which a Federal, State or local government agency has indicated opposition on environmental grounds (which has not been resolved to the written satisfaction of the objecting agency).

(3) Major urban mass transportation investments as defined by UMTA's policy on major investments (49 FR 21284; May 18, 1984).

(d) The signature of the UMTA approving official on the cover sheet also indicates compliance with section 14 of the UMT Act and fulfillment of the grant application requirements of sections 3(d)(1) and (2), 5(h), and 5(i) of the UMT Act.

(e) Approval of the final EIS is not an Administration Action (as defined in § 771.107(c)) and does not commit the Administration to approve any future grant request to fund the preferred alternative.

(f) The initial printing of the final EIS shall be in sufficient quantity to meet the request for copies which can be reasonably expected from agencies, organizations, and individuals. Normally, copies will be furnished free of charge. However, with Administration concurrence, the party requesting the final EIS may be charged a fee which is not more than the actual cost of reproducing the copy or may be directed to the nearest location where the statement may be reviewed.

(g) The final EIS shall be transmitted to any persons, organizations, or agencies that made substantive comments on the draft EIS or requested a copy, no later than the time the document is filed with EPA. In the case of lengthy documents, the agency may provide alternative circulation processes in accordance with 40 CFR 1502.19. The applicant shall also publish a notice of availability in local newspapers and make the final EIS available through the mechanism established pursuant to DOT Order 4600.13 which implements Executive Order 12372. When filed with EPA, the final EIS shall be available for public review at the applicant's offices and at appropriate Administration offices. A copy should also be made available for public review at institutions such as local government offices, libraries, and schools, as appropriate.

§ 771.127 Record of decision.

(a) The Administration will complete and sign a record of decision (ROD) no sooner than 30 days after publication of the final EIS notice in the **Federal Register** or 90 days after publication of a notice for the draft EIS, whichever is later. The ROD will present the basis for the decision as specified in 40 CFR 1505.2, summarize any mitigation measures that will be incorporated in the project and document any required section 4(f) approval in accordance with § 771.135(l). Until any required ROD has been signed, no further approvals may be given except for administrative

activities taken to secure further project funding and other activities consistent with 40 CFR 1506.1.

(b) If the Administration subsequently wishes to approve an alternative which was not identified as the preferred alternative but was fully evaluated in the final EIS, or proposes to make substantial changes to the mitigation measures or findings discussed in the ROD, a revised ROD shall be subject to review by those Administration offices which reviewed the final EIS under § 771.125(c). To the extent practicable the approved revised ROD shall be provided to all persons, organizations, and agencies that received a copy of the final EIS pursuant to § 771.125(g).

§ 771.129 Re-evaluations.

(a) A written evaluation of the draft EIS shall be prepared by the applicant in cooperation with the Administration if an acceptable final EIS is not submitted to the Administration within 3 years from the date of the draft EIS circulation. The purpose of this evaluation is to determine whether a supplement to the draft EIS or a new draft EIS is needed.

(b) A written evaluation of the final EIS will be required before further approvals may be granted if major steps to advance the action (e.g., authority to undertake final design, authority to acquire a significant portion of the right-of-way, or approval of the plans, specifications and estimates) have not occurred within three years after the approval of the final EIS, final EIS supplement, or the last major Administration approval or grant.

(c) After approval of the EIS, FONSI, or CE designation, the applicant shall consult with the Administration prior to requesting any major approvals or grants to establish whether or not the approved environmental document or CE designation remains valid for the requested Administration action. These consultations will be documented when determined necessary by the Administration.

§ 771.130 Supplemental environmental impact statements.

(a) A draft EIS, final EIS, or supplemental EIS may be supplemented at any time. An EIS shall be supplemented whenever the Administration determines that:

(1) Changes to the proposed action would result in significant environmental impacts that were not evaluated in the EIS; or

(2) New information or circumstances relevant to environmental concerns and bearings on the proposed action or its impacts would result in significant environmental impacts not evaluated in the EIS.

(b) However, a supplemental EIS will not be necessary where:

(1) The changes to the proposed action, new information, or new circumstances result in a lessening of adverse environmental impacts evaluated in the EIS without causing other environmental impacts that are significant and were not evaluated in the EIS; or

(2) The Administration decides to approve an alternative fully evaluated in an approved final EIS but not identified as the preferred alternative. In such a case, a revised ROD shall be prepared and circulated in accordance with § 771.127(b).

(c) Where the Administration is uncertain of the significance of the new impacts, the applicant will develop appropriate environmental studies or, if the Administration deems appropriate, an EA to assess the impacts of the changes, new information, or new circumstances. If, based upon the studies, the Administration determines that a supplemental EIS is not necessary, the Administration shall so indicate in the project file.

(d) A supplement is to be developed using the same process and format (i.e., draft EIS, final EIS, and ROD) as an original EIS, except that scoping is not required.

(e) A supplemental draft EIS may be necessary for UMTA major urban mass transportation investments if there is a substantial change in the level of detail on project impacts during project planning and development. The supplement will address site-specific impacts and refined cost estimates that have been developed since the original draft EIS.

(f) In some cases, a supplemental EIS may be required to address issues of limited scope, such as the extent of proposed mitigation or the evaluation of location or design variations for a limited portion of the overall project. Where this is the case, the preparation of a supplemental EIS shall not necessarily:

(i) Prevent the granting of new approvals;

(ii) Require the withdrawal of previous approvals; or

(iii) Require the suspension of project activities; for any activity not directly affected by the supplement. If the changes in question are of such magnitude to require a reassessment of the entire action, or more than a limited portion of the overall action, the Administration shall suspend any activities which would have an adverse environmental impact or limit the choice of reasonable alternatives, until the supplemental EIS is completed.

§ 771.131 Emergency action procedures.

Requests for deviations from the procedures in this regulation because of emergency circumstances (40 CFR 1506.11) shall be referred to the Administration's headquarters for evaluation and decision after consultation with CEQ.

§ 771.133 Compliance with other requirements.

The final EIS or FONSI should document compliance with requirements of all applicable environmental laws, Executive Orders, and other related requirements. If full compliance is not possible by the time the final EIS or FONSI is prepared, the final EIS or FONSI should reflect consultation with the appropriate agencies and provide reasonable assurance that the requirements will be met. Approval of the environmental document constitutes adoption of any Administration findings and determinations that are contained therein. The FHWA approval of the appropriate NEPA document will constitute its finding of compliance with the report requirements of 23 U.S.C. 128.

§ 771.135 Section 4(f) (49 U.S.C. 303).

(a)(1) The Administration may not approve the use of land from a significant publicly owned public park, recreation area, or wildlife and waterfowl refuge, or any significant historic site unless a determination is made that:

(i) There is no feasible and prudent alternative to the use of land from the property; and

(ii) The action includes all possible planning to minimize harm to the property resulting from such use.

(2) Supporting information must demonstrate that there are unique problems or unusual factors involved in the use of alternatives that avoid these properties or that the cost, social, economic, and environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes.

(b) The Administration will determine the application of section 4(f). Any use of lands from a section 4(f) property shall be evaluated early in the development of the action when alternatives to the proposed action are under study.

(c) Consideration under section 4(f) is not required when the Federal, State, or local officials having jurisdiction over a park, recreation area or refuge determine that the entire site is not

significant. In the absence of such a determination, the section 4(f) land will be presumed to be significant. The Administration will review the significance determination to assure its reasonableness.

(d) Where Federal lands or other public land holdings (e.g., State forests) are administered under statutes permitting management for multiple uses, and, in fact, are managed for multiple uses, section 4(f) applies only to those portions of such lands which function for, or are designated in the plans of the administering agency as being for, significant park, recreation, or wildlife and waterfowl purposes. The determination as to which lands so function or are so designated, and the significance of those lands, shall be made by the officials having jurisdiction over the lands. The Administration will review this determination to assure its reasonableness. The determination of significance shall apply to the entire area of such park, recreation, or wildlife and waterfowl refuge sites.

(e) In determining the application of section 4(f) to historic sites, the Administration, in cooperation with the applicant, will consult with the State Historic Preservation Officer (SHPO) and appropriate local officials to identify all properties on or eligible for the National Register of Historic Places (National Register). The section 4(f) requirements apply only to sites on or eligible for the National Register unless the Administration determines that the application of section 4(f) is otherwise appropriate.

(f) The Administration may determine that section 4(f) requirements do not apply to restoration, rehabilitation, or maintenance of transportation facilities that are on or eligible for the National Register when:

(1) Such work will not adversely affect the historic qualities of the facility that caused it to be on or eligible for the National Register, and

(2) The SHPO and the Advisory Council on Historic Preservation (ACHP) have been consulted and have not objected to the Administration finding in paragraph (f)(l) of this section.

(g)(l) Section 4(f) applies to all archeological sites on or eligible for inclusion on the National Register, including those discovered during construction except as set forth in paragraph (g)(2) of this section. Where section 4(f) applies to archeological sites discovered during construction, the section 4(f) process will be expedited. In such cases, the evaluation of feasible and prudent alternatives will take account of the level of investment already made. The review process, including the consultation with other agencies, will be shortened as appropriate.

(2) Section 4(f) does not apply to archeological sites where the Administration, after consultation with the SHPO and the ACHP, determines that the archeological resource is important chiefly because of what can be learned by data recovery and has minimal value for preservation in place. This exception applies both to situations where data recovery is undertaken or where the Administration decides, with agreement of the SHPO and, where applicable, the ACHP not to recover the resource.

(h) Designations of park and recreation lands, wildlife and waterfowl refuges, and historic sites are sometimes made and determinations of significance changed late in the development of a proposed action. With the exception of the treatment of archeological resources in paragraph (g) of this section, the Administration may permit a project to proceed without consideration under section 4(f) if the property interest in the section 4(f) lands was acquired for transportation purposes prior to the designation or change in the determination of significance and if an adequate effort was made to identify properties protected by section 4(f) prior to acquisition.

(i) The evaluations of alternatives to avoid the use of section 4(f) land and of possible measures to minimize harm to such lands shall be developed by the applicant in cooperation with the Administration. This information should be presented in the draft EIS, EA, or, for a project classified as a CE in a separate document. The section 4(f) evaluation shall be provided for coordination and comment to the officials having jurisdiction over the section 4(f) property and to the Department of the Interior, and as appropriate to the Department of Agriculture and the Department of Housing and Urban Development. A minimum of 45 days shall be established by the Administration for receipt of comments. Uses of section 4(f) land covered by a programmatic section 4(f) evaluation shall be documented and coordinated as specified in the programmatic section 4(f) evaluation.

(j) When adequate support exists for a section 4(f) determination, the discussion in the final EIS, FONSI, or separate section 4(f) evaluation shall specifically address:

(1) The reasons why the alternatives to avoid a section 4(f) property are not feasible and prudent; and

(2) All measures which will be taken to minimize harm to the section 4(f) property.

(k) The final Section 4(f) evaluation will be reviewed for legal sufficiency.

(l) For actions processed with EISs, the Administration will make the section 4(f) approval either in its approval of the final EIS or in the ROD. Where the section 4(f) approval is documented in the final EIS, the Administration will summarize the basis for its section 4(f) approval in the ROD. Actions requiring the use of section 4(f) property, and proposed to be processed with a FONSI or classified as a CE, shall not proceed until notified by the Administration of section 4(f) approval. For these actions, any required section 4(f) approval will be documented separately.

(m) Circulation of a separate section 4(f) evaluation will be required when:

(l) A proposed modification of the alignment or design would require the use of section 4(f) property after the CE, FONSI, draft EIS, of final EIS has been processed;

(2) The Administration determines, after processing the CE, FONSI, draft EIS, or final EIS that section 4(f) applies to a property;

(3) A proposed modification of the alignment, design, or measures to minimize harm (after the original section 4(f) approval) would result in a substantial increase in the amount of section 4(f) land used, a substantial increase in the adverse impacts to section 4(f) land, or a substantial reduction in mitigation measures; or

(4) Another agency is the lead agency for the NEPA process, unless another DOT element is preparing the section 4(f) evaluation.

(n) If the Administration determines under section 771.135(m) or otherwise, that section 4(f) is applicable after the CE, FONSI, or final EIS has been processed, the decision to prepare and circulate a section 4(f) evaluation will not necessarily require the preparation of a new or supplemental environmental document. Where a separately circulated section 4(f) evaluation is prepared, such evaluation does not necessarily:

(i) Prevent the granting of new approvals;

(ii) Require the withdrawal of previous approvals; or

(iii) Require the suspension of project activities; for any activity not affected by the section 4(f) evaluation.

(o) An analysis required by section 4(f) may involve different levels of detail where the section 4(f) involvement is addressed in a tiered EIS.

(1) When the first-tier, broad-scale EIS is prepared, the detailed information necessary to complete the section 4(f) evaluation may not be available at that stage in the development of the action. In such cases, an evaluation should be made on the potential impacts that a proposed action will have on section 4(f) land and whether those impacts could have a bearing on the decision to be made. A preliminary determination may be made at this time as to whether there are feasible and prudent locations or alternatives for the action to avoid the use of section 4(f) land. This preliminary determination shall consider all possible planning to minimize harm to the extent that the level of detail available at the first-tier EIS stage allows. It is recognized that such planning at this stage will normally be limited to ensuring that opportunities to minimize harm at subsequent stages in the development process have not been precluded by decisions made at the first-tier stage. This preliminary determination is then incorporated into the first-tier EIS.

(2) A section 4(f) approval made when additional design details are available will include a determination that:

(i) The preliminary section 4(f) determination made pursuant to paragraph (o)(1) of this section is still valid; and

(ii) The criteria of paragraph (a) of this section have been met.

§ 771.137 International actions.

(a) The requirements of this part apply to:

(1) Administration actions significantly affecting the environment of a foreign nation not participating in the action or not otherwise involved in the action.

(2) Administration actions outside the U.S., its territories, and possessions which significantly affect natural resources of global importance designated for protection by the President or by international agreement.

(b) If communication with a foreign government concerning environmental studies or documentation is anticipated, the Administration shall coordinate such communication with the Department of State through the Office of the Secretary of Transportation.

Due to the revision of 23 CFR Part 771, the following technical amendments are necessary to correct references and certain phrases found in Parts 640 and 712. These technical amendments are effective on the same date as the rule for Part 771.

PART 640—[AMENDED]

§ 640.107 [Amended]

3. In § 640.107, paragraph (d) is amended by removing the words "a nonmajor action" and "23 CFR 771.9" and inserting in their place "categorical exclusions" and "23 CFR Part 771" respectively.

PART 712—[AMENDED]

§ 712.204 [Amended]

4. In § 712.204, paragraph (c)(1) is amended by removing the words "negative declaration" and inserting in their place "environmental assessment;" paragraph (c)(3)(ii) is amended by removing the reference "§ 771.5" and the words "negative declarations" and inserting in their place "23 CFR Part 771" and "findings of no significant impact," respectively; and paragraph (c)(3)(iii) is amended by removing the reference "§ 771.19" and the word "statements" and inserting in their place "23 CFR Part 771" and "evaluations," respectively.

PART 790—[REMOVED]

5. Part 790, Public Hearings and Location/Design Approval is removed from Chapter I of 23 CFR, effective one year after publication in the **Federal Register.**

Due to the rescission of 23 CFR Part 790, the following technical amendments are necessary to correct references found in other parts of Title 23, Code of Federal Regulations, as set forth below. These technical amendments are effective on the same date as the rescission of 23 CFR Part 790.

PART 635—[AMENDED]

§ 635.309 [Amended]

6. In § 635.309, paragraph (d) is amended by removing "has satisfied the requirements of 23 CFR Part 790 where applicable or, under alternate procedures which have been accepted by FHWA" and inserting in its place "in accord with 23 CFR 771.111(h)."

PART 650—[AMENDED]

§ 650.109 [Removed]

7. Part 650, Subpart A, is amended by removing § 650.109, Public Involvement, in its entirety.

PART 712—[AMENDED]

§ 712.204 [Amended]

8. In § 712.204, paragraphs (c)(3) (iii) and (iv) are amended by removing, "and" and inserting a period at the end of paragraph (c)(3)(iii), and removing paragraph (c)(3)(iv) entirely.

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August 28, 1987

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 888

Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules for Use in the Existing Housing Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Housing Voucher Program; Proposed Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 888

[Docket No. N-87-1712; FR-2377]

Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules for Use in the Existing Housing Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Housing Voucher Program

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed notice.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish Fair Markets Rents periodically, but not less frequently than annually. The Department's regulations at 24 CFR Part 888 provide for notice and comment process for developing Fair Market Rents, and today's document proposes new Fair Market Rents. The proposal would amend Fair Market Rents schedules for the Section 8 Existing Housing Certificate Program (Part 882, Subparts A and B) including space rentals by owners of manufactured homes the Section 8 Existing Housing Certificate Program (Part 882, Subpart F), the Section 8 Moderate Rehabilitation Program (Part 882, Subparts D and E), and Section 8 existing housing assisted under Part 886, Subpart A and C (Section 8 loan management and property disposition programs). In addition, FMRs are used to determine payment Standard schedules in the Housing Voucher Program.

DATE: Comments are due October 27, 1987.

ADDRESSES: Interested persons are invited to submit comments to the Rules Docket Clerk Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410-0500. Each comment should include the commenter's name and address and must refer to the docket number indicated in the heading of this notice. Each commenter should simultaneously submit a copy its comments to the Economic and Market Analysis Staff in the appropriate HUD Field Office. A copy of each comment submitted to the Rule Docket Clerk will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Cecelia D. Livingston, Housing Voucher Division, Office of Elderly and Assisted Housing, telephone (202) 755-6477. For technical information on the development of schedules for specific areas or the methods used for the rent calculations, contact Michael R. Allard, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 755-5577. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes a housing assistance program to aid lower families in renting decent, safe, and sanitary, housing. Assistance payments are limited by Fair Market Rents (FMRs) (or payment standards based on FMRs in the Housing Voucher Program) established by HUD for different areas.

In general, the FMR for an area is the amount that would be needed to rent privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

II. Development of FMRs

Section 8(c) of the Act requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. The Department's regulations provide that HUD will develop FMRs by publishing proposed FMRs for public comment, analyzing the public comment, and publishing final FMRs. (See 24 CFR 888.115.)

Last year, HUD announced proposed FMRs for all areas on December 8, 1986 (51 FR 44198), and announced final FMRs on April 29, 1987 (52 15630) and on June 30, 1987 (52 FR 24381). Today's annoucement of proposed FMRs comes less than a year after the annoucement of proposed FY-1987 FMRs. HUD is attempting by this publication to make FMRs effective as early as possible in the applicable fiscal year.

As noted above, HUD announced final FY-1987 FMRs in two publications. The first publication announced final FMRs for those market areas for which no public comment was received or for which all public comments received supported the proposed FMRs. The second publication issued final FMRs for the remaining market areas and contained an analysis and response to public comments.

HUD is concerned that last year's procedure may have discouraged some interested parties from submitting comments in opposition to proposed FMRs. (E.g. An interested party may have believed that a proposed FMR, while increased over the prior year's FMR, was not high enough. Under the FY-1987 procedure, such a commenter might not have submitted a comment supporting a higher FMR because the comment would have delayed the effective date of the proposed smaller increase.)

To avoid the "chilling" of public comment, HUD intends to use the following procedure for the publication of final FY-1988 FMRs: Shortly after the close of the 60-day public comment period, HUD will, following an initial review of the public comments, publish FMRs for effect in all areas. The FMRs published for effect will either be at the proposed or the existing FMR level.

In making the determination whether to publish at the proposed or existing FMR level, HUD consider only those comments that are accompanied by supporting data as described in section VI. of this notice, below. HUD will publish FMRs at the proposed level, unless (1) HUD has proposed an increase to an FMR and a comment is considered that supports an FMR that is less than the proposed FMR, or (2) HUD has proposed a decrease to an FMR and comment is considered that supports an FMR that exceeds the proposed FMR. Under these two circumstances, HUD will publish the FMR at the existing, rather than the proposed, level.

Following the publication of this effective FMR schedule, HUD will review all public comments, including those comments that did not include adequate supporting data. Based on the information contained in the comments, as supplemented by information collected from the field offices, HUD will publish a second announcement making necessary revisions to the FMR schedules and including an analysis and response to the comments.

III. Applicability of FMRs

These FMRs are used for a variety of programs. They apply to the Section 8 Existing Housing Certificate Program under Part 882, (Subparts A and B), including space rentals by owners of manufactured homes (Subpart F), the Moderate Rehabilitation Program under Part 882 (Subparts D and E), the Section 8 Housing Assistance Program for Projects with HUD-insured or HUD-held Mortgages under Part 886 (Subpart A), as well as for existing housing under the Section 8 Housing Assistance Program for the Disposition without Substantial Rehabilitation of HUD-owned projects

under Part 886 (Subpart C). In addition, FMRs are used to establish payment standards for the Housing Voucher Program.

IV. Fair Market Rent Schedules

This document proposes revised Fair Market Rents, which reflect estimated rent levels as of April 1, 1988. Schedules at the end of this document list the FMR levels for Existing Housing (Schedule B) and Manufactured Home Spaces in the Section 8 Certificate Program (Shedule D). FMRs for the Moderate Rehabilitation Program are 120 percent of the Schedule B Existing Housing Fair Market Rents (see 24 CFR 882.408(a) and 888.113(e)(1)). The FMR for a Single Room Occupancy (SRO) unit in the Existing Housing Certificate program is 75 percent of the zero-bedroom FMR listed in Schedule B. The FMR limitation for an SRO unit in the Moderate Rehabilitation program is 75 percent of the Moderate Rehabilitation FMR for a zero-bedroom unit. For an SRO in the Housing Voucher Program, the PHA may request HUD approval of an applicable standard for SRO units within the range of 75 to 100 percent of the zero-bedroom FMR listed in Schedule B or the HUD approved community-wide exception rent.

V. Method Used to Develop FMRs

The elements used by HUD in developing the FMRs are: (1) The 45th percentile rent (that is, the rent below which 45 percent of the standard quality rental housing units are distributed); (2) Rents based on units occupied by recent movers (households who moved within two years before the date of the survey data used in these calculations); and (3) Exclusion from the data base of public housing units and recently completed housing (units built within two years of the survey dates). (See 24 CFR 888.113.)

In establishing the proposed FMRs, HUD uses the most accurate data available. Data used to compute the FY–1988 FMRs include the 1980 Census data, post-1980 American Housing Survey (AHS) data and reliable area specific data submitted by public commenters in the development of the FY–1986 and FY–1987 FMRs. (In 1986, area specific data were accepted in 224 FMR areas of the 386 FMR areas subject to public comment. In 1987, specific data were accepted for 46 of 115 FMR areas subject to public comment.)

This year's proposed FMRs were calculated by updating last year's final FMRs one additional year to April 1, 1988 based on the most recent CPI data available on average annual changes for rents and utilities. The FMRs have been calculated for each Primary Metropolitan Statistical Area (PMSA), Metropolitan Statistical Area (MSA), and nonmetropolitan county.

The following areas are being proposed for no increase, based on no change in the CPI data. Brazoria, TX PMSA; Galveston-Texas City, TX PMSA; and the Houston, TX PMSA. The Owenboro, Kentucky MSA is also being proposed for no change based on a followup of the request made in last year's comment from the local PHA.

In developing proposed FMRs for the State of Alaska, the Department has determined that the recent CPI data for the Anchorage area more accurately represents Alaska market conditions than do CPI data from the West Census Region. Also, the Department has requested information from the HUD Carribean Field Office concerning the possibility that the FMRs had previously been overestimated in Puerto Rico and the Virgin Islands. Based on the information submitted, we continue to believe that the current FMRs are adequate. Accordingly, the proposed rents for these areas reflect no change from last year.

The special circumstances of these areas are consistent with the Department's efforts to "use the most accurate data available" and to describe the additional data in the publication of proposed FMRs. (See 24 CFR 88.113(d).)

This year's proposed FMRs for manufactured homes spaces were calculated by updating last year's FMRs to April 1, 1988, using the most current average annual change in the CPI residential rent index (with hearing costs included in the rent factored out). The FMRs for 15 nonmetropolitan counties were held at last year's levels as a result of previous definitional changes of metropolitan areas.

VI. Request for Comments

The Department seeks public comment on FMR levels for specific areas. Comments of FMR levels should include sufficient information (including a full description on local data and methodology used) to justify any proposed changes. Changes may be proposed in all or any of the unit sizes on the schedule. Recommendations and supporting data must reflect the rent levels that exist within the entire market area (Metropolitan Statisticial Area, Primary Metropolitan Statistical Area, or nonmetropolitan county).

Local housing market studies, rental market surveys or other comprehensive rental market data may be submitted to show the 45th percentile rent levels for standard quality rental housing units. To be representative, the local data must exclude units built within the last two years of the PHAs' survey, should not be drawn solely from vacant units, and should approximate the same proportion of units by structure type (for example, highrise or single family detached) and date of construction as exists in the total local inventory. A weighted sample may be used to obtain appropriate coverage. Since the Department's data base includes only recent movers, where possible, commenters may wish to submit surveys based only on recent movers.

Local rental market surveys may be conducted to cover all bedroom sizes, or only selected bedroom sizes. Surveys that cover only two-bedroom units are acceptable if rent proposals for other size units are consistent with established HUD differentials by bedroom size, or if other pertinent data are supplied to support the proposals for other size units. When three- and four-bedroom units are surveyed, the following procedure must be used to determine appropriate FMR proposals: (1) Determine the 45th percentile rents for the three- and four-bedroom units surveyed, (2) multiply the 45th percential three-bedroom rent by 1.087 to determine the three-bedroom FMR, and (3) multiply the four-bedroom rent by 1.007 to determine the four-bedroom FMR. The use of these factors will produce the same upward adjustments in the rent differentials by bedroom size as those applied to the rent differentials for three- and four-bedroom units in the HUD methodology.

For areas where gross rents have increased significantly as a result of taxes or the costs of fuel and utilities applicable to a major portion of the FMR area, data relating to these increased costs may be submitted to justify revision of the FMRs. Data must be adequately described to facilitate evaluation and comparison with tax, fuel and utility costs data used in the Department's FMR calculations, and must be representative of the rental inventory.

VII. Other Matters

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the Section 8 Existing Housing Program is categorically excluded from the Department's National Environment Policy Act procedures under 24 CFR 50.20(d).

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this Notice does not have a significant economic impact on a

substantial number of small entities because FMRs reflect the rents for similar quality units in the area. Therefore, FMRs do not change the rent from that which would be charged if the project were not in the Section 8 program.

This document does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the document indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (Section 8).

Accordingly, the Fair Market Rent Schedules are proposed to be amended as follows:

Date: August 19, 1987.

Thomas T. Demery,

Assistant Secretary for Housing, Federal Housing Commissioner.

Section 8 Fair Market Rent Schedules for Use in the Existing Housing Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Housing Voucher Program Schedules B & D—General Explanatory Notes

1. Geographic Coverage

a. FMRs for Existing Housing (Schedule B) are established for all Metropolitan Statistical Areas (MSAs), Primary Metropolitan Statistical Areas (PMSAs), nonmetropolitan counties, and county equivalents in the United States, District of Columbia, Puerto Rico, the Virgin Islands, and Guam. FMRs also are established for nonmetropolitan parts of counties in the New England States.

b. FMRs for Manufactured Home spaces in the Section 8 Certificate Program (Schedule D) are established for all MSAs, PMSAs, selected nonmetropolitan counties, and the residual nonmetropolitan portion of each State.

c. The current 338 MSAs and PMSAs are those established by the Office of Management and Budget effective October 18, 1986.

2. Arrangement of FMR Areas and Identification of Constitutent Parts

a. The FMR areas in Schedules B and D are listed alphabetically by MSA–PMSA and nonmetropolitan county within each State.

b. The constituent counties (and New England towns and cities) included in each MSA and PMSA are listed immediately following the MSA–PMSA names in each State listed in Schedule B. All of the constituent parts of an MSA that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

e. The FMRs are listed by dollar amount on the first line beginning with the FMR area name.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: ALABAMA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANNISTON, AL MSA					
COUNTY(IES): CALHOUN	229	277	326	409	458
BIRMINGHAM, AL MSA					
COUNTY(IES): BLOUNT, JEFFERSON, ST CLAIR, SHELBY, WALKER	268	325	383	478	535
COLUMBUS, GA-AL MSA					
COUNTY(IES): RUSSELL	237	285	337	422	474
DOTHAN, AL MSA					
COUNTY(IES): DALE, HOUSTON	267	323	381	475	533
FLORENCE, AL MSA					
COUNTY(IES): COLBERT, LAUDERDALE	242	295	348	431	483
GADSDEN, AL MSA					
COUNTY(IES): ETOWAH	210	256	302	378	423
HUNTSVILLE, AL MSA					
COUNTY(IES): MADISON	269	326	384	480	537
MOBILE, AL MSA					
COUNTY(IES): BALDWIN, MOBILE	278	337	396	496	557
MONTGOMERY, AL MSA					
COUNTY(IES): AUTAUGA, ELMORE, MONTGOMERY	246	300	352	441	494
TUSCALOOSA, AL MSA					
COUNTY(IES): TUSCALOOSA	258	314	370	462	518

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BARBOUR	194	235	277	346	388
BULLOCK	198	240	282	353	395
CHAMBERS	192	233	274	343	384
CHILTON	188	229	270	337	377
CLARKE	210	256	302	378	423
CLEBURNE	192	233	274	343	384
CONECUH	210	256	302	378	423
COVINGTON	194	235	277	346	388
CULLMAN	234	284	335	419	469
DE KALB	221	268	315	393	442
FAYETTE	188	229	270	337	377
GENEVA	194	235	277	346	388
HALE	188	229	270	337	377
JACKSON	221	268	315	393	442
LAWRENCE	234	284	335	419	469
LIMESTONE	199	242	285	356	399
MACON	210	255	301	376	421
MARION	188	228	268	335	375
MONROE	210	256	302	378	423
PERRY	210	256	302	378	423
PIKE	210	255	301	376	421
SUMTER	210	256	302	378	423
TALLAPOOSA	192	233	274	343	384
WILCOX	210	256	302	378	423

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIBB	188	229	270	337	377
BUTLER	182	222	261	326	366
CHEROKEE	192	233	274	343	384
CHOCTAN	210	256	302	378	423
CLAY	192	233	274	343	384
COFFEE	194	235	277	346	388
COOSA	192	233	274	343	384
CRENSHAW	198	240	282	353	395
DALLAS	210	256	302	378	423
ESCAMBIA	178	217	254	319	356
FRANKLIN	188	228	268	335	375
GREENE	188	229	270	337	377
HENRY	194	235	277	346	388
LAMAR	188	229	270	337	377
LEE	240	291	343	429	481
LOWNDES	198	240	282	353	395
MARENGO	210	256	302	378	423
MARSHALL	206	251	294	365	408
MORGAN	234	284	335	419	469
PICKENS	188	229	270	337	377
RANDOLPH	192	233	274	343	384
TALLADEGA	192	233	274	343	384
WASHINGTON	210	256	302	378	423
WINSTON	188	228	268	335	375

S T A T E: ALASKA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANCHORAGE, AK MSA					
COUNTY(IES): ANCHORAGE	448	545	641	801	897

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALEUTIAN I.	532	646	760	950	1064
BRISTOL BAY	532	646	760	950	1064
FAIRBKS-N.ST	438	532	626	783	877
JUNEAU	532	646	760	950	1064
KETCH-GATEWY	532	646	760	950	1064
KODIAK ISLND	532	646	760	950	1064
NOME	532	646	760	950	1064
P.WLS-O.KTCH	532	646	760	950	1064
SKGWY-YKT-AN	532	646	760	950	1064
VALDEZ-CORDO	438	532	626	783	877
WRNGLL-PTRBR	532	646	760	950	1064

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BETHEL	532	646	760	950	1064
DILLINGHAM	532	646	760	950	1064
HAINES	532	646	760	950	1064
KENAI-PENIN	438	532	626	783	877
KOBUK	532	646	760	950	1064
MATANUSKA-SU	438	532	626	783	877
NORTH SLOPE	532	646	760	950	1064
SITKA	532	646	760	950	1064
SE FAIRBANKS	438	532	626	783	877
WADE HAMPTON	532	646	760	950	1064
YKN-KOYKK	532	646	760	950	1064

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: ARIZONA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PHOENIX, AZ MSA COUNTY(IES): MARICOPA	379	457	539	677	754
TUCSON, AZ MSA COUNTY(IES): PIMA	359	438	515	644	721

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
APACHE	263	319	376	470	526	COCHISE	268	326	382	479	537
COCONINO	333	405	476	596	667	GILA	270	329	388	484	541
GRAHAM	268	326	382	479	537	GREENLEE	268	326	382	479	537
LAPAZ	338	412	484	605	678	MOHAVE	338	412	484	605	678
NAVAJO	263	319	376	470	526	PINAL	270	329	388	484	541
SANTA CRUZ	268	326	382	479	537	YAVAPAI	333	405	476	596	667
YUMA	338	412	484	605	678						

S T A T E: ARKANSAS	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FAYETTEVILLE-SPRINGDALE, AR MSA COUNTY(IES): WASHINGTON	251	304	358	447	501
FORT SMITH, AR-OK MSA COUNTY(IES): CRAWFORD, SEBASTIAN	243	296	348	436	488
LITTLE ROCK-NORTH LITTLE ROCK, AR MSA COUNTY(IES): FAULKNER, LONOKE, PULASKI, SALINE	290	351	413	517	579
MEMPHIS, TN-AR-MS MSA COUNTY(IES): CRITTENDEN	258	317	374	464	522
PINE BLUFF, AR MSA COUNTY(IES): JEFFERSON	240	293	345	432	483
TEXARKANA, TX-TEXARKANA, AR MSA COUNTY(IES): MILLER	240	292	344	430	481

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ARKANSAS	204	247	292	364	408	ASHLEY	194	235	277	347	389
BAXTER	231	281	332	414	465	BENTON	240	291	339	417	465
BOONE	231	281	332	414	465	BRADLEY	194	235	277	347	389
CALHOUN	195	240	280	351	392	CARROLL	231	281	332	414	465
CHICOT	194	235	277	347	389	CLARK	214	260	305	382	429
CLAY	217	264	310	388	435	CLEBURNE	227	276	325	406	455
CLEVELAND	201	244	288	359	402	COLUMBIA	195	240	280	351	392
CONWAY	200	243	287	358	400	CRAIGHEAD	255	308	363	453	509
CROSS	205	251	296	365	408	DALLAS	195	240	280	351	392
DESHA	194	235	277	347	389	DREW	194	235	277	347	389
FRANKLIN	181	219	258	322	361	FULTON	227	276	325	406	455
GARLAND	214	260	305	382	429	GRANT	201	244	288	359	402
GREENE	217	264	310	388	435	HEMPSTEAD	199	240	284	356	398
HOTSPRING	214	260	305	382	429	HOWARD	199	240	284	356	398
INDEPENDENCE	227	276	325	406	455	IZARD	227	276	325	406	455
JACKSON	227	276	325	406	455	JOHNSON	200	243	287	358	400
LAFAYETTE	199	240	284	356	398	LAWRENCE	217	264	310	388	435
LEE	205	251	296	365	408	LINCOLN	194	235	277	347	389
LITTLE RIVER	199	240	284	356	398	LOGAN	181	219	258	322	361
MADISON	231	281	332	414	465	MARION	231	281	332	414	465
MISSISSIPPI	235	287	337	421	472	MONROE	175	213	251	313	350
MONTGOMERY	214	260	305	382	429	NEVADA	199	240	284	356	398
NEWTON	231	281	332	414	465	OUACHITA	195	237	278	349	392
PERRY	200	243	287	358	400	PHILLIPS	205	251	296	365	408
PIKE	214	260	305	382	429	POINSETT	217	264	310	388	435
POLK	216	262	308	385	432	POPE	200	243	287	358	400
PRAIRIE	175	213	251	313	350	RANDOLPH	217	264	310	388	435
ST FRANCIS	205	251	296	365	408	SCOTT	181	219	258	322	361
SEARCY	231	281	332	414	465	SEVIER	199	240	284	356	398
SHARP	227	276	325	406	455	STONE	227	276	325	406	455
UNION	195	240	280	351	392	VAN BUREN	227	276	325	406	455
WHITE	227	276	325	406	455	WOODRUFF	227	276	325	406	455
YELL	200	243	287	358	400						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

STATE: CALIFORNIA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANAHEIM-SANTA ANA, CA PMSA COUNTY(IES): ORANGE	530	643	757	946	1060
BAKERSFIELD, CA MSA COUNTY(IES): KERN	367	445	524	655	734
CHICO, CA MSA COUNTY(IES): BUTTE	322	391	460	575	644
FRESNO, CA MSA COUNTY(IES): FRESNO	334	407	479	598	670
LOS ANGELES-LONG BEACH, CA PMSA COUNTY(IES): LOS ANGELES	471	564	656	840	949
MERCED, CA MSA COUNTY(IES): MERCED	315	383	451	580	657
MODESTO, CA MSA COUNTY(IES): STANISLAUS	352	427	504	630	705
OAKLAND, CA PMSA COUNTY(IES): ALAMEDA, CONTRA COSTA	520	631	744	930	1041
OXNARD-VENTURA, CA PMSA COUNTY(IES): VENTURA	453	550	647	809	907
REDDING, CA MSA COUNTY(IES): SHASTA	334	407	479	598	670
RIVERSIDE-SAN BERNARDINO, CA PMSA COUNTY(IES): RIVERSIDE, SAN BERNADIN	385	454	529	684	771
SACRAMENTO, CA MSA COUNTY(IES): EL DORADO, PLACER, SACRAMENTO, YOLO	354	421	504	732	776
SALINAS-SEASIDE-MONTEREY, CA MSA COUNTY(IES): MONTEREY	401	487	572	717	803
SAN DIEGO, CA MSA COUNTY(IES): SAN DIEGO	435	534	626	783	876
SAN FRANCISCO, CA PMSA COUNTY(IES): MARIN, SAN FRANCISC, SAN MATEO	569	690	817	1018	1139
SAN JOSE, CA PMSA COUNTY(IES): SANTA CLARA	559	632	738	963	1057
SANTA BARBARA-SANTA MARIA-LOMPOC, CA MSA COUNTY(IES): SANTA BARBAR	453	550	648	811	908
SANTA CRUZ, CA PMSA COUNTY(IES): SANTA CRUZ	509	618	729	910	1020
SANTA ROSA-PETALUMA, CA PMSA COUNTY(IES): SONOMA	448	544	641	801	897
STOCKTON, CA MSA COUNTY(IES): SAN JOAQUIN	311	375	442	565	659
VALLEJO-FAIRFIELD-NAPA, CA PMSA COUNTY(IES): NAPA, SOLANO	417	475	559	807	870
VISALIA-TULARE-PORTERVILLE, CA MSA COUNTY(IES): TULARE	312	380	447	647	709
YUBA CITY, CA MSA COUNTY(IES): SUTTER, YUBA	276	336	395	520	583

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALPINE	367	445	524	655	734	AMADOR	367	445	524	655	734
CALAUERAS	367	445	524	655	734	COLUSA	277	337	397	498	558
DEL NORTE	334	407	479	598	670	GLENN	277	337	397	498	558
HUMBOLDT	345	419	493	616	691	IMPERIAL	348	422	497	621	695
INYO	367	445	524	655	734	KINGS	303	368	432	541	606
LAKE	334	407	479	598	670	LASSEN	307	372	438	547	614
MADERA	303	368	432	543	606	MARIPOSA	367	445	524	655	734
MENDOCINO	334	407	517	654	670	MODOC	307	372	438	547	614
MONO	367	445	524	655	734	NEVADA	411	500	587	735	822
PLUMAS	307	372	438	547	614	SAN BENITO	303	368	463	595	667
SAN LUIS OBI	415	504	594	742	831	SIERRA	411	500	587	735	822
SISKIYOU	307	372	438	547	614	TEHAMA	307	372	438	547	614
TRINITY	334	407	479	598	670	TUOLUMNE	367	445	524	655	734

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

STATE: COLORADO

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOULDER-LONGMONT, CO PMSA COUNTY(IES): BOULDER	378	460	542	677	758
COLORADO SPRINGS, CO MSA COUNTY(IES): EL PASO	299	362	427	534	598
DENVER, CO PMSA COUNTY(IES): ADAMS, ARAPAHOE, DENVER, DOUGLAS, JEFFERSON	360	426	502	624	700
FORT COLLINS-LOVELAND, CO MSA COUNTY(IES): LARIMER	344	418	491	615	689
GREELEY, CO MSA COUNTY(IES): WELD	298	361	425	532	596
PUEBLO, CO MSA COUNTY(IES): PUEBLO	297	359	423	530	594

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALAMOSA	297	359	423	530	594
BACA	259	312	362	453	509
CHAFFEE	329	399	469	587	657
CLEAR CREEK	329	399	469	587	657
COSTILLA	297	359	423	530	594
CUSTER	329	399	469	587	657
DELORES	297	359	423	530	594
ELBERT	254	309	362	453	509
GARFIELD	373	452	533	667	746
GRAND	392	474	558	698	783
HINSDALE	392	474	558	698	783
JACKSON	392	474	558	698	783
KIT CARSON	254	309	362	453	509
LA PLATA	330	396	467	583	654
LINCOLN	259	312	362	453	509
MESA	373	452	533	667	746
MOFFAT	373	452	533	667	746
MONTROSE	392	474	558	698	783
OTERO	259	312	362	453	509
PARK	329	399	469	587	657
PITKIN	392	474	558	698	783
RIO BLANCO	373	452	533	667	746
ROUTT	392	474	558	698	783
SAN JUAN	297	359	423	530	594
SEDGWICK	254	309	362	453	509
TELLER	329	399	469	587	657
YUMA	254	309	362	453	509

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ARCHULETA	297	359	423	530	594
BENT	259	312	362	453	509
CHEYENNE	254	309	362	453	509
CONEJOS	297	359	423	530	594
CROWLEY	259	312	362	453	509
DELTA	392	474	558	698	783
EAGLE	392	474	558	698	783
FREMONT	329	399	469	587	657
GILPIN	329	399	469	587	657
GUNNISON	392	474	558	698	783
HUERFANO	297	359	423	530	594
KIOWA	259	312	362	453	509
LAKE	329	399	469	587	657
LAS ANIMAS	297	359	423	530	594
LOGAN	254	309	362	453	509
MINERAL	297	359	423	530	594
MONTEZUMA	297	359	423	530	594
MORGAN	254	309	362	453	509
OURAY	392	474	558	698	783
PHILLIPS	254	309	362	453	509
PROWERS	259	312	362	453	509
RIO GRANDE	297	359	423	530	594
SAGUACHE	297	359	423	530	594
SAN MIGUEL	392	474	558	698	783
SUMMIT	392	474	558	698	783
WASHINGTON	254	309	362	453	509

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: CONNECTICUT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BRIDGEPORT-MILFORD, CT PMSA COUNTY: FAIRFIELD TOWNS OF BRIDGEPORT, EASTON, FAIRFIELD, MONROE, SHELTON, STRATFORD, TRUMBULL COUNTY: NEW HAVEN TOWNS OF ANSONIA, BEACON FALLS, DERBY, MILFORD, OXFORD, SEYMOUR	403	489	577	720	808
BRISTOL, CT PMSA COUNTY: HARTFORD TOWNS OF BRISTOL, BURLINGTON COUNTY: LITCHFIELD TOWNS OF PLYMOUTH	337	409	481	602	675
DANBURY, CT PMSA COUNTY: FAIRFIELD TOWNS OF BETHEL, BROOKFIELD, DANBURY, NEW FAIRFIEL, NEWTOWN, REDDING, RIDGEFIELD, SHERMAN COUNTY: LITCHFIELD TOWNS OF BRIDGEWATER, NEW MILFORD	436	531	625	781	875
HARTFORD, CT PMSA COUNTY: HARTFORD TOWNS OF AVON, BLOOMFIELD, CANTON, EAST GRANBY, EAST HARTFOR, EAST WINDSOR, ENFIELD, FARMINGTON GLASTONBURY, GRANBY, HARTFORD, MANCHESTER, MARLBOROUGH, NEWINGTON, ROCKY HILL, SIMSBURY, SOUTH WINDSO SUFFIELD, WEST HARTFOR, WETHERSFIELD, WINDSOR, WINDSOR LOCK COUNTY: LITCHFIELD TOWNS OF BARKHAMSTED, NEW HARTFORD COUNTY: MIDDLESEX TOWNS OF EAST HADDAM COUNTY: NEW LONDON TOWNS OF COLCHESTER COUNTY: TOLLAND TOWNS OF ANDOVER, BOLTON, COLUMBIA, COVENTRY, ELLINGTON, HEBRON, SOMERS, STAFFORD, TOLLAND, VERNON WILLINGTON	405	494	577	727	810
MIDDLETOWN, CT PMSA COUNTY: MIDDLESEX TOWNS OF CROMWELL, DURHAM, EAST HAMPTON, HADDAM, MIDDLEFIELD, MIDDLETOWN, PORTLAND	341	415	489	612	685
NEW BRITAIN, CT PMSA COUNTY: HARTFORD TOWNS OF BERLIN, NEW BRITAIN, PLAINVILLE, SOUTHINGTON	361	438	516	645	723
NEW HAVEN-MERIDEN, CT MSA COUNTY: MIDDLESEX TOWNS OF CLINTON, KILLINGWORTH COUNTY: NEW HAVEN TOWNS OF BETHANY, BRANFORD, CHESHIRE, EAST HAVEN, GUILFORD, HAMDEN, MADISON, MERIDEN, NEW HAVEN NORTH BRANFO, NORTH HAVEN, ORANGE, WALLINGFORD, WEST HAVEN, WOODBRIDGE	436	531	625	782	875
NEW LONDON-NORWICH, CT-RI MSA COUNTY: NEW LONDON TOWNS OF BOZRAH, EAST LYME, FRANKLIN, GRISWOLD, GROTON, LEDYARD, LISBON, MONTVILLE, NEW LONDON NORTH STONIN, NORWICH, OLD LYME, PRESTON, SALEM, SPRAGUE, STONINGTON, WATERFORD COUNTY: WINDHAM TOWNS OF CANTERBURY	388	472	554	693	777
NORWALK, CT PMSA COUNTY: FAIRFIELD TOWNS OF NORWALK, WESTON, WESTPORT, WILTON	464	564	664	829	929
STAMFORD, CT PMSA COUNTY: FAIRFIELD TOWNS OF DARIEN, GREENWICH, NEW CANAAN, STAMFORD	485	590	695	868	972
WATERBURY, CT MSA COUNTY: LITCHFIELD TOWNS OF BETHLEHEM, THOMASTON, WATERTOWN, WOODBURY COUNTY: NEW HAVEN TOWNS OF MIDDLEBURY, NAUGATUCK, PROSPECT, SOUTHBURY, WATERBURY, WOLCOTT	351	426	501	627	702

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HARTFORD COUNTY TOWNS OF HARTLAND	337	409	481	602	675
LITCHFIELD COUNTY TOWNS OF CANAAN, COLEBROOK, CORNWALL, GOSHEN HARWINTON, KENT, LITCHFIELD, MORRIS, NORFOLK, NORTH CANAAN, ROXBURY, SALISBURY, SHARON, TORRINGTON, WARREN WASHINGTON, WINCHESTER	373	453	532	666	746
MIDDLESEX COUNTY TOWNS OF CHESTER, DEEP RIVER, ESSEX, OLD SAYBROOK WESTBROOK	418	506	596	745	834
NEW LONDON COUNTY TOWNS OF LEBANON, LYME, VOLUNTOWN	299	364	428	536	600
TOLLAND COUNTY TOWNS OF MANSFIELD, UNION	404	491	577	722	809
WINDHAM COUNTY TOWNS OF ASHFORD, BROOKLYN, CHAPLIN, EASTFORD, HAMPTON KILLINGLY, PLAINFIELD, POMFRET, PUTNAM, SCOTLAND, STERLING, THOMPSON, WINDHAM, WOODSTOCK	357	434	511	638	716

S T A T E: DELAWARE	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
WILMINGTON, DE-NJ-MD PMSA COUNTY(IES): NEW CASTLE	367	439	522	652	776

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KENT	269	326	384	485	537	SUSSEX	269	326	384	485	537

S T A T E: DIST. OF COLUMBIA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
WASHINGTON, DC-MD-VA MSA COUNTY(IES): WASHINGTON	412	501	590	741	830

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: FLORIDA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BRADENTON, FL MSA COUNTY(IES): MANATEE	336	409	482	602	674
DAYTONA BEACH, FL MSA COUNTY(IES): VOLUSIA	326	394	464	581	651
FORT LAUDERDALE-HOLLYWOOD-POMPANO BEACH, FL PMSA COUNTY(IES): BROWARD	369	447	526	658	737
FORT MYERS-CAPE CORAL, FL MSA COUNTY(IES): LEE	346	420	494	618	693
FORT PIERCE, FL MSA COUNTY(IES): MARTIN, ST LUCIE	346	420	494	618	693
FORT WALTON BEACH, FL MSA COUNTY(IES): OKALOOSA	231	280	330	413	462
GAINESVILLE, FL MSA COUNTY(IES): ALACHUA, BRADFORD	293	356	419	524	586
JACKSONVILLE, FL MSA COUNTY(IES): CLAY, DUVAL, NASSAU, ST JOHNS	306	372	439	548	614
LAKELAND-WINTER HAVEN, FL MSA COUNTY(IES): POLK	276	336	395	495	555
MELBOURNE-TITUSVILLE-PALM BAY, FL MSA COUNTY(IES): BREVARD	317	380	447	559	627
MIAMI-HIALEAH, FL PMSA COUNTY(IES): DADE	376	449	525	662	738
NAPLES, FL MSA COUNTY(IES): COLLIER	355	430	507	635	711
OCALA, FL MSA COUNTY(IES): MARION	256	311	365	456	511
ORLANDO, FL MSA COUNTY(IES): ORANGE, OSCEOLA, SEMINOLE	338	412	484	589	658
PANAMA CITY, FL MSA COUNTY(IES): BAY	245	299	352	441	492
PENSACOLA, FL MSA COUNTY(IES): ESCAMBIA, SANTA ROSA	274	334	392	491	550
SARASOTA, FL MSA COUNTY(IES): SARASOTA	364	443	521	650	729
TALLAHASSEE, FL MSA COUNTY(IES): GADSDEN, LEON	289	350	413	516	577
TAMPA-ST. PETERSBURG-CLEARWATER, FL MSA COUNTY(IES): HERNANDO, HILLSBOROUGH, PASCO, PINELLAS	303	368	433	542	608
WEST PALM BEACH-BOCA RATON-DELRAY BEACH, FL MSA COUNTY(IES): PALM BEACH	353	422	491	600	661

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BAKER	223	270	318	397	446
CHARLOTTE	334	407	479	598	670
COLUMBIA	205	251	295	368	413
DIXIE	205	251	295	368	413
FRANKLIN	189	229	269	337	378
GLADES	334	407	479	598	670
HAMILTON	205	251	295	368	413
HENDRY	334	407	479	598	670
HOLMES	220	266	314	392	440
JACKSON	197	238	280	351	393
LAFAYETTE	205	251	295	368	413
LEVY	256	311	365	456	511
MADISON	205	251	295	368	413
OKEECHOBEE	240	292	343	429	482
SUMTER	256	309	365	456	511
TAYLOR	205	251	295	368	413
WAKULLA	189	229	269	337	378
WASHINGTON	189	229	269	337	378
CALHOUN	189	229	269	337	378
CITRUS	256	309	365	456	511
DE SOTO	240	292	343	429	482
FLAGLER	258	312	368	460	516
GILCHRIST	205	251	295	368	413
GULF	189	229	269	337	378
HARDEE	240	292	343	429	482
HIGHLANDS	240	292	343	429	482
INDIAN RIVER	346	420	494	618	693
JEFFERSON	189	229	269	337	378
LAKE	269	327	384	481	539
LIBERTY	189	229	269	337	378
MONROE	392	476	630	753	818
PUTNAM	258	312	368	460	516
SUWANNEE	205	251	295	368	413
UNION	205	251	295	368	413
WALTON	257	311	367	459	514

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

STATE: GEORGIA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBANY, GA MSA					
COUNTY(IES): DOUGHERTY, LEE	254	307	363	454	508
ATHENS, GA MSA					
COUNTY(IES): CLARKE, JACKSON, MADISON, OCONEE	262	320	376	470	526
ATLANTA, GA MSA					
COUNTY(IES): BARROW, BUTTS, CHEROKEE, CLAYTON, COBB, COWETA, DE KALB, DOUGLAS, FAYETTE, FORSYTH, FULTON, GWINNETT, HENRY NEWTON, PAULDING, ROCKDALE, SPALDING, WALTON	355	430	504	631	705
AUGUSTA, GA-SC MSA					
COUNTY(IES): COLUMBIA, MCDUFFIE, RICHMOND	267	322	376	470	526
CHATTANOOGA, TN-GA MSA					
COUNTY(IES): CATOOSA, DADE, WALKER	285	346	407	509	571
COLUMBUS, GA-AL MSA					
COUNTY(IES): CHATTAHOOCHE, COLUMBUS	237	285	337	422	474
MACON-WARNER ROBINS, GA MSA					
COUNTY(IES): BIBB, HOUSTON, JONES, PEACH	263	322	380	474	528
SAVANNAH, GA MSA					
COUNTY(IES): CHATHAM, EFFINGHAM	267	325	383	478	536

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
APPLING	219	266	314	392	439	ATKINSON	206	250	294	368	413
BACON	206	250	294	368	413	BAKER	214	260	302	379	424
BALDWIN	209	254	299	374	419	BANKS	197	241	283	353	395
BARTON	222	270	319	398	447	BEN HILL	217	263	310	388	434
BERRIEN	217	263	310	388	434	BLECKLEY	214	260	302	379	419
BRANTLEY	206	250	294	368	413	BROOKS	217	263	310	388	434
BRYAN	253	294	347	433	486	BULLOCH	219	266	314	392	439
BURKE	210	255	300	376	421	CALHOUN	214	260	302	379	424
CAMDEN	243	294	347	433	486	CANDLER	219	266	314	392	439
CARROLL	253	305	359	449	501	CHARLTON	214	259	302	373	413
CHATTOOGA	222	270	319	398	447	CLAY	214	260	302	379	424
CLINCH	206	250	294	368	413	COFFEE	206	250	294	368	413
COLQUITT	212	257	302	378	424	COOK	217	263	310	388	434
CRAWFORD	178	216	254	318	355	CRISP	212	257	302	378	424
DAWSON	200	247	287	356	395	DECATUR	214	260	302	379	424
DODGE	214	260	302	379	419	DOOLY	214	260	302	379	424
EARLY	214	260	302	379	424	ECHOLS	217	263	310	388	434
ELBERT	202	246	289	362	405	EMANUEL	210	255	300	376	421
EVANS	219	266	314	392	439	FANNIN	238	289	339	425	476
FLOYD	222	270	319	398	447	FRANKLIN	197	241	283	353	395
GILMER	238	289	339	425	476	GLASCOCK	210	255	300	376	421
GLYNN	243	294	347	433	486	GORDON	222	270	319	398	447
GRADY	214	260	302	379	424	GREENE	200	243	286	357	399
HABERSHAM	221	268	317	395	443	HALL	285	342	406	506	570
HANCOCK	214	260	302	379	419	HARALSON	222	270	319	398	447
HARRIS	216	263	305	380	424	HART	197	241	283	353	395
HEARD	235	286	336	421	471	IRWIN	217	263	310	388	434
JASPER	214	260	302	379	419	JEFF DAVIS	219	266	314	392	439
JEFFERSON	210	255	300	376	421	JENKINS	210	255	300	376	421
JOHNSON	214	260	302	379	419	LAMAR	196	238	281	351	392
LANIER	217	263	310	388	434	LAURENS	209	254	299	374	419
LIBERTY	243	294	347	433	486	LINCOLN	210	255	300	376	421
LONG	243	294	347	433	486	LOWNDES	217	263	310	388	434
LUMPKIN	200	247	287	356	395	MCINTOSH	243	294	347	433	486
MACON	214	260	302	379	424	MARION	216	263	305	380	424
MERIWETHER	235	286	336	421	471	MILLER	214	260	302	379	424
MITCHELL	214	260	302	379	424	MONROE	178	216	254	318	355
MONTGOMERY	216	264	310	382	424	MORGAN	200	243	286	357	399
MURRAY	238	289	339	425	476	OGLETHORPE	200	243	286	357	399
PICKENS	238	289	339	425	476	PIERCE	206	250	294	368	413
PIKE	196	238	281	351	392	POLK	222	272	319	398	447
PULASKI	214	260	302	379	419	PUTNAM	214	260	302	379	419
QUITMAN	212	257	302	378	424	RABUN	200	247	287	356	395
RANDOLPH	214	260	302	379	424	SCHLEY	216	263	305	380	424
SCREVEN	216	264	310	382	424	SEMINOLE	214	260	302	379	424
STEPHENS	232	285	332	417	464	STEWART	216	263	305	380	424
SUMTER	237	290	342	427	479	TALBOT	212	257	302	378	424
TALIAFERRO	210	255	300	376	421	TATTNALL	219	266	314	392	439
TAYLOR	214	260	302	379	424	TELFAIR	214	260	302	379	419
TERRELL	214	260	302	379	424	THOMAS	248	300	353	443	496
TIFT	217	263	310	388	434	TOOMBS	219	266	314	392	439
TOWNS	200	247	287	356	395	TREUTLEN	214	260	302	379	419
TROUP	241	290	340	424	472	TURNER	217	263	310	388	434
TWIGGS	178	216	254	318	355	UNION	200	247	287	356	395
UPSON	196	238	281	351	392	WARE	206	250	294	368	413
WARREN	210	255	300	376	421	WASHINGTON	214	260	302	379	419

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

STATE: GEORGIA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
WAYNE	219	266	314	392	439
WHEELER	214	260	302	379	419
WHITFIELD	238	289	339	425	476
WILKES	210	255	300	376	421
WORTH	214	260	302	379	424

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
WEBSTER	216	263	305	380	424
WHITE	200	247	287	356	395
WILCOX	214	260	302	379	419
WILKINSON	214	260	302	379	419

STATE: HAWAII

HONOLULU, HI MSA
COUNTY(IES): HONOLULU

0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
416	506	595	748	838

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HAWAII	408	495	581	728	815
MAUI	408	495	581	728	815

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KAUAI	408	495	581	728	815

STATE: IDAHO

BOISE CITY, ID MSA
COUNTY(IES): ADA

0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
347	422	497	620	695

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	270	329	387	483	542
BEAR LAKE	281	341	401	502	563
BINGHAM	283	344	401	502	563
BOISE	270	329	387	483	542
BONNEVILLE	303	367	433	541	607
BUTTE	303	367	433	541	607
CANYON	270	329	387	483	542
CASSIA	287	349	411	513	575
CLEARWATER	281	341	401	502	563
ELMORE	270	329	387	483	542
FREMONT	303	367	433	541	607
GOODING	287	349	411	513	575
JEFFERSON	303	367	433	541	607
KOOTENAI	281	341	401	502	563
LEMHI	303	367	433	541	607
LINCOLN	287	349	411	513	575
MINIDOKA	287	349	411	513	575
ONEIDA	281	341	401	502	563
PAYETTE	270	329	387	483	542
SHOSHONE	281	341	401	502	563
TWIN FALLS	287	349	411	513	575
WASHINGTON	270	329	387	483	542

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BANNOCK	283	344	401	502	563
BENEWAH	281	341	401	502	563
BLAINE	287	349	411	513	575
BONNER	281	341	401	502	563
BOUNDARY	281	341	401	502	563
CAMAS	287	349	411	513	575
CARIBOU	283	344	401	502	563
CLARK	303	367	433	541	607
CUSTER	303	367	433	541	607
FRANKLIN	281	341	401	502	563
GEM	270	329	387	483	542
IDAHO	281	341	401	502	563
JEROME	287	349	411	513	575
LATAH	281	341	401	502	563
LEWIS	281	341	401	502	563
MADISON	303	367	433	541	607
NEZ PERCE	281	341	401	502	563
OWYHEE	270	329	387	483	542
POWER	283	344	401	502	563
TETON	303	367	433	541	607
VALLEY	270	329	387	483	542

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: ILLINOIS	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AURORA-ELGIN, IL PMSA	398	486	573	715	803
COUNTY(IES): KANE, KENDALL					
BLOOMINGTON-NORMAL, IL MSA	297	362	426	532	596
COUNTY(IES): MCLEAN					
CHAMPAIGN-URBANA-RANTOUL, IL MSA	289	351	414	519	579
COUNTY(IES): CHAMPAIGN					
CHICAGO, IL PMSA	388	477	558	701	783
COUNTY(IES): COOK, DU PAGE, MCHENRY					
DAVENPORT-ROCK ISLAND-MOLINE, IA-IL MSA	318	386	455	568	636
COUNTY(IES): HENRY, ROCK ISLAND					
DECATUR, IL MSA	289	351	414	519	579
COUNTY(IES): MACON					
JOLIET, IL PMSA	400	487	575	717	805
COUNTY(IES): GRUNDY, WILL					
KANKAKEE, IL MSA	286	347	409	511	573
COUNTY(IES): KANKAKEE					
LAKE COUNTY, IL PMSA	410	498	585	734	822
COUNTY(IES): LAKE					
PEORIA, IL MSA	335	407	478	599	670
COUNTY(IES): PEORIA, TAZEWELL, WOODFORD					
ROCKFORD, IL MSA	304	370	435	543	608
COUNTY(IES): BOONE, WINNEBAGO					
ST. LOUIS, MO-IL MSA	303	369	435	546	611
COUNTY(IES): CLINTON, JERSEY, MADISON, MONROE, ST CLAIR					
SPRINGFIELD, IL MSA	305	371	436	545	610
COUNTY(IES): MENARD, SANGAMON					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	227	275	324	405	454	ALEXANDER	210	254	301	375	420
BOND	249	304	357	446	500	BROWN	227	275	324	405	454
BUREAU	276	336	396	495	554	CALHOUN	253	308	363	453	507
CARROLL	256	311	367	459	513	CASS	260	312	369	456	507
CHRISTIAN	262	318	374	468	525	CLARK	249	304	357	446	500
CLAY	234	284	335	418	469	COLES	249	304	357	446	500
CRANFORD	234	284	335	418	469	CUMBERLAND	249	304	357	446	500
DE KALB	299	363	427	534	598	DE WITT	249	304	357	446	500
DOUGLAS	249	304	357	446	500	EDGAR	249	304	357	446	500
EDWARDS	227	275	324	405	454	EFFINGHAM	234	284	335	418	469
FAYETTE	234	284	335	418	469	FORD	260	315	371	465	521
FRANKLIN	265	321	379	474	531	FULTON	276	336	396	495	554
GALLATIN	210	254	301	375	420	GREENE	253	308	363	453	507
HAMILTON	227	275	324	405	454	HANCOCK	243	295	347	435	488
HARDIN	210	254	301	375	420	HENDERSON	243	295	347	435	488
IROQUOIS	260	315	371	465	521	JACKSON	265	321	379	474	531
JASPER	234	284	335	418	469	JEFFERSON	255	309	368	459	511
JO DAVIESS	256	311	367	459	513	JOHNSON	210	254	301	375	420
KNOX	269	326	383	480	538	LA SALLE	313	380	447	560	627
LAWRENCE	234	284	335	418	469	LEE	313	380	447	560	627
LIVINGSTON	260	315	371	465	521	LOGAN	260	312	369	456	507
MCDONOUGH	249	303	353	439	488	MACOUPIN	262	318	374	468	525
MARION	234	284	335	418	469	MARSHALL	276	336	396	495	554
MASON	260	312	369	456	507	MASSAC	210	254	301	375	420
MERCER	243	295	347	435	488	MONTGOMERY	262	318	374	468	525
MORGAN	260	312	369	456	507	MOULTRIE	262	318	374	468	525
OGLE	256	311	367	459	513	PERRY	249	304	357	446	500
PIATT	249	304	357	446	500	PIKE	227	275	324	405	454
POPE	210	254	301	375	420	PULASKI	210	254	301	375	420
PUTNAM	276	336	396	495	554	RANDOLPH	249	304	357	446	500
RICHLAND	234	284	335	418	469	SALINE	210	254	301	375	420
SCHUYLER	227	275	324	405	454	SCOTT	260	312	369	456	507
SHELBY	262	318	374	468	525	STARK	276	336	396	495	554
STEPHENSON	256	311	367	459	513	UNION	210	254	301	375	420
VERMILION	260	315	371	465	521	WABASH	227	275	324	405	454
WARREN	249	303	353	439	488	WASHINGTON	249	304	357	446	500
WAYNE	227	275	324	405	454	WHITE	227	275	324	405	454
WHITESIDE	313	380	447	560	627	WILLIAMSON	265	321	379	474	531

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: INDIANA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANDERSON, IN MSA COUNTY(IES): MADISON	248	303	355	445	499
BLOOMINGTON, IN MSA COUNTY(IES): MONROE	269	326	384	481	538
CINCINNATI, OH-KY-IN PMSA COUNTY(IES): DEARBORN	260	318	375	469	522
ELKHART-GOSHEN, IN MSA COUNTY(IES): ELKHART	263	318	375	469	525
EVANSVILLE, IN-KY MSA COUNTY(IES): POSEY, VANDERBURGH, WARRICK	277	328	385	483	540
FORT WAYNE, IN MSA COUNTY(IES): ALLEN, DE KALB, WHITLEY	277	333	388	487	540
GARY-HAMMOND, IN PMSA COUNTY(IES): LAKE, PORTER	320	388	456	571	640
INDIANAPOLIS, IN MSA COUNTY(IES): BOONE, HAMILTON, HANCOCK, HENDRICKS, JOHNSON, MARION, MORGAN, SHELBY	270	328	386	482	540
KOKOMO, IN MSA COUNTY(IES): HOWARD, TIPTON	274	334	391	490	549
LAFAYETTE-WEST LAFAYETTE, IN MSA COUNTY(IES): TIPPECANOE	289	352	414	518	580
LOUISVILLE, KY-IN MSA COUNTY(IES): CLARK, FLOYD, HARRISON	254	308	361	450	504
MUNCIE, IN MSA COUNTY(IES): DELAWARE	239	287	338	419	469
SOUTH BEND-MISHAWAKA, IN MSA COUNTY(IES): ST JOSEPH	271	327	382	474	527
TERRE HAUTE, IN MSA COUNTY(IES): CLAY, VIGO	245	299	349	433	481

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	244	296	345	431	483	BARTHOLOMEW	276	336	395	494	554
BENTON	234	284	336	419	469	BLACKFORD	221	269	316	395	443
BROWN	276	336	395	494	554	CARROLL	234	284	336	419	469
CASS	242	295	347	433	486	CLINTON	234	284	336	419	469
CRAWFORD	202	245	288	362	406	DAVIESS	228	276	326	408	456
DECATUR	276	336	395	494	554	DUBOIS	202	245	288	362	406
FAYETTE	238	286	336	419	469	FOUNTAIN	234	284	336	419	469
FRANKLIN	238	286	336	419	469	FULTON	227	275	323	406	454
GIBSON	263	318	375	469	525	GRANT	221	269	316	395	443
GREENE	228	276	326	408	456	HENRY	221	269	316	395	443
HUNTINGTON	241	294	345	431	483	JACKSON	276	336	395	494	554
JASPER	244	297	349	437	489	JAY	221	269	316	395	443
JEFFERSON	263	318	375	469	525	JENNINGS	276	336	395	494	554
KNOX	234	280	326	408	456	KOSCIUSKO	250	303	356	439	489
LAGRANGE	250	304	357	447	501	LA PORTE	266	322	379	474	532
LAWRENCE	253	309	363	454	508	MARSHALL	244	297	349	437	489
MARTIN	228	276	326	408	456	MIAMI	242	295	347	433	486
MONTGOMERY	234	284	336	419	469	NEWTON	244	297	349	437	489
NOBLE	249	304	357	447	501	OHIO	263	318	375	469	525
ORANGE	202	245	288	362	406	OWEN	268	325	382	479	536
PARKE	234	284	336	419	469	PERRY	202	245	288	362	406
PIKE	263	318	375	469	525	PULASKI	244	297	349	437	489
PUTNAM	242	295	346	433	485	RANDOLPH	221	269	316	395	443
RIPLEY	263	318	375	469	525	RUSH	234	284	336	419	469
SCOTT	250	305	359	449	503	SPENCER	202	245	288	362	406
STARKE	244	297	349	437	489	STEUBEN	249	304	357	447	501
SULLIVAN	234	284	336	419	469	SWITZERLAND	263	318	375	469	525
UNION	238	286	336	419	469	VERMILLION	242	294	343	426	472
WABASH	227	275	323	406	454	WARREN	234	284	336	419	469
WASHINGTON	271	329	387	485	543	WAYNE	239	287	338	419	469
WELLS	246	297	346	433	483	WHITE	234	284	336	419	469

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: IOWA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CEDAR RAPIDS, IA MSA COUNTY(IES): LINN	309	374	440	552	619
DAVENPORT-ROCK ISLAND-MOLINE, IA-IL MSA COUNTY(IES): SCOTT	318	386	455	568	636
DES MOINES, IA MSA COUNTY(IES): DALLAS, POLK, WARREN	307	373	439	551	616
DUBUQUE, IA MSA COUNTY(IES): DUBUQUE	286	346	407	509	571
IOWA CITY, IA MSA COUNTY(IES): JOHNSON	324	394	463	579	649
OMAHA, NE-IA MSA COUNTY(IES): POTTAWATTAMI	281	340	401	502	563
SIOUX CITY, IA-NE MSA COUNTY(IES): WOODBURY	278	338	398	498	558
WATERLOO-CEDAR FALLS, IA MSA COUNTY(IES): BLACK HAWK, BREMER	310	375	442	554	621

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAIR	234	285	335	420	469
ALLAMAKEE	247	300	354	442	496
AUDUBON	248	302	356	444	498
BOONE	283	342	403	504	565
BUENA VISTA	243	295	347	434	488
CALHOUN	248	302	356	444	498
CASS	255	309	363	455	509
CERRO GORDO	245	298	351	438	492
CHICKASAW	247	300	354	442	496
CLAY	243	295	347	434	488
CLINTON	276	335	395	494	554
DAVIS	234	285	335	420	469
DELAWARE	276	335	395	494	554
DICKINSON	243	295	347	434	488
FAYETTE	247	300	354	442	496
FRANKLIN	245	298	351	438	492
GREENE	248	302	356	444	498
GUTHRIE	248	302	356	444	498
HANCOCK	245	298	351	438	492
HARRISON	255	309	363	455	509
HOWARD	247	300	354	442	496
IDA	248	302	356	444	498
JACKSON	276	335	395	494	554
JEFFERSON	259	314	369	462	518
KEOKUK	243	295	347	434	487
LEE	260	316	371	464	521
LUCAS	234	285	335	420	469
MADISON	262	319	374	468	525
MARION	262	319	374	468	525
MILLS	255	309	363	455	509
MONONA	248	302	356	444	498
MONTGOMERY	255	309	363	455	509
O BRIEN	243	295	347	434	488
PAGE	255	309	363	455	509
PLYMOUTH	248	302	356	444	498
POWESHIEK	258	313	368	461	517
SAC	248	302	356	444	498
SIOUX	243	295	347	434	488
TAMA	258	313	368	461	517
UNION	234	285	335	420	469
WAPELLO	276	334	394	493	552
WAYNE	234	285	335	420	469
WINNEBAGO	245	298	351	438	492
WORTH	245	298	351	438	492

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	234	285	335	420	469
APPANOOSE	234	285	335	420	469
BENTON	242	294	346	433	485
BUCHANAN	247	300	354	442	496
BUTLER	247	300	354	442	496
CARROLL	248	302	356	444	498
CEDAR	276	335	395	494	554
CHEROKEE	248	302	356	444	498
CLARKE	234	285	335	420	469
CLAYTON	247	300	354	442	496
CRAWFORD	248	302	356	444	498
DECATUR	234	285	335	420	469
DES MOINES	260	316	371	464	521
EMMET	243	295	347	434	488
FLOYD	245	298	351	438	492
FREMONT	255	309	363	455	509
GRUNDY	247	300	354	442	496
HAMILTON	248	302	356	444	498
HARDIN	258	313	368	461	517
HENRY	260	316	371	464	521
HUMBOLDT	248	302	356	444	498
IOWA	242	294	346	433	485
JASPER	262	319	374	468	525
JONES	242	294	346	433	485
KOSSUTH	245	298	351	438	492
LOUISA	260	316	371	464	521
LYON	243	295	347	434	488
MAHASKA	234	285	335	420	469
MARSHALL	258	313	368	461	517
MITCHELL	245	298	351	438	492
MONROE	234	285	335	420	469
MUSCATINE	260	316	371	464	521
OSCEOLA	243	295	347	434	488
PALO ALTO	243	295	347	434	488
POCAHONTAS	248	302	356	444	498
RINGGOLD	234	285	335	420	469
SHELBY	255	309	363	455	509
STORY	283	342	403	504	565
TAYLOR	234	285	335	420	469
VAN BUREN	234	285	335	420	469
WASHINGTON	242	294	346	433	485
WEBSTER	248	302	356	444	498
WINNESHIEK	247	300	354	442	496
WRIGHT	248	302	356	444	498

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: KANSAS

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MO-KS MSA COUNTY(IES): JOHNSON, LEAVENWORTH, MIAMI, WYANDOTTE	292	354	416	520	582
LAWRENCE, KS MSA COUNTY(IES): DOUGLAS	311	377	444	555	622
TOPEKA, KS MSA COUNTY(IES): SHAWNEE	282	343	402	504	564
WICHITA, KS MSA COUNTY(IES): BUTLER, HARVEY, SEDGWICK	300	364	433	538	601

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLEN	197	238	281	351	394	ANDERSON	197	238	281	351	394
ATCHISON	227	275	324	405	454	BARBER	228	277	326	407	456
BARTON	228	277	326	407	456	BOURBON	197	238	281	351	394
BROWN	227	275	324	405	454	CHASE	248	302	356	444	497
CHAUTAUQUA	197	238	281	351	394	CHEROKEE	208	253	298	373	418
CHEYENNE	199	241	284	356	398	CLARK	234	284	334	418	469
CLAY	248	302	356	444	497	CLOUD	246	299	352	441	493
COFFEY	248	302	356	444	497	COMANCHE	228	277	326	407	456
COWLEY	197	238	281	351	394	CRAWFORD	208	253	298	373	418
DECATUR	199	241	284	356	398	DICKINSON	248	302	356	444	497
DONIPHAN	227	275	324	405	454	EDWARDS	228	277	326	407	456
ELK	197	238	281	351	394	ELLIS	199	241	284	356	398
ELLSWORTH	246	299	352	441	493	FINNEY	234	284	334	418	469
FORD	234	284	334	418	469	FRANKLIN	215	261	307	383	429
GEARY	248	302	356	444	497	GOVE	199	241	284	356	398
GRAHAM	199	241	284	356	398	GRANT	234	284	334	418	469
GRAY	234	284	334	418	469	GREELEY	234	284	334	418	469
GREENWOOD	248	302	356	444	497	HAMILTON	234	284	334	418	469
HARPER	228	277	326	407	456	HASKELL	234	284	334	418	469
HODGEMAN	234	284	334	418	469	JACKSON	227	275	324	405	454
JEFFERSON	215	262	308	384	431	JEWELL	246	299	352	441	493
KEARNY	234	284	334	418	469	KINGMAN	228	277	326	407	456
KIOWA	228	277	326	407	456	LABETTE	208	253	298	373	418
LANE	234	284	334	418	469	LINCOLN	246	299	352	441	493
LINN	197	238	281	351	394	LOGAN	199	241	284	356	398
LYON	248	302	356	444	497	MCPHERSON	262	318	375	469	524
MARION	248	302	356	444	497	MARSHALL	248	302	356	444	497
MEADE	234	284	334	418	469	MITCHELL	246	299	352	441	493
MONTGOMERY	208	253	298	373	418	MORRIS	248	302	356	444	497
MORTON	234	284	334	418	469	NEMAHA	227	275	324	405	454
NEOSHO	208	253	298	373	418	NESS	234	284	334	418	469
NORTON	199	241	284	356	398	OSAGE	215	262	308	384	431
OSBORNE	199	241	284	356	398	OTTAWA	246	299	352	441	493
PAWNEE	228	277	326	407	456	PHILLIPS	199	241	284	356	398
POTTAWATOMIE	248	302	356	444	497	PRATT	228	277	326	407	456
RAWLINS	199	241	284	356	398	RENO	262	318	375	469	524
REPUBLIC	246	299	352	441	493	RICE	262	318	375	469	524
RILEY	248	302	356	444	497	ROOKS	199	241	284	356	398
RUSH	228	277	326	407	456	RUSSELL	199	241	284	356	398
SALINE	246	299	352	441	493	SCOTT	234	284	334	418	469
SEWARD	234	284	334	418	469	SHERIDAN	199	241	284	356	398
SHERMAN	199	241	284	356	398	SMITH	199	241	284	356	398
STAFFORD	228	277	326	407	456	STANTON	234	284	334	418	469
STEVENS	234	284	334	418	469	SUMNER	228	277	326	407	456
THOMAS	199	241	284	356	398	TREGO	199	241	284	356	398
WABAUNSEE	248	302	356	444	497	WALLACE	199	241	284	356	398
WASHINGTON	246	299	352	441	493	WICHITA	234	284	334	418	469
WILSON	197	238	281	351	394	WOODSON	197	238	281	351	394

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: KENTUCKY	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CINCINNATI, OH-KY-IN PMSA	260	318	375	469	522
COUNTY(IES): BOONE, CAMPBELL, KENTON					
CLARKSVILLE-HOPKINSVILLE, TN-KY MSA	263	331	415	503	559
COUNTY(IES): CHRISTIAN					
EVANSVILLE, IN-KY MSA	277	328	385	483	540
COUNTY(IES): HENDERSON					
HUNTINGTON-ASHLAND, WV-KY-OH MSA	282	342	403	504	566
COUNTY(IES): BOYD, CARTER, GREENUP					
LEXINGTON-FAYETTE, KY MSA	295	358	421	527	590
COUNTY(IES): BOURBON, CLARK, FAYETTE, JESSAMINE, SCOTT, WOODFORD					
LOUISVILLE, KY-IN MSA	254	308	361	450	504
COUNTY(IES): BULLITT, JEFFERSON, OLDHAM, SHELBY					
OWENSBORO, KY MSA	231	280	330	412	462
COUNTY(IES): DAVIESS					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAIR	217	264	308	380	426	ALLEN	183	222	261	326	366
ANDERSON	270	330	387	484	542	BALLARD	222	269	316	396	444
BARREN	231	280	331	412	464	BATH	217	263	310	388	435
BELL	235	287	337	421	472	BOYLE	263	318	376	470	526
BRACKEN	217	263	310	388	435	BREATHITT	223	270	318	398	446
BRECKINRIDGE	214	260	305	382	428	BUTLER	183	222	261	326	366
CALDWELL	232	282	334	417	467	CALLOWAY	222	269	316	396	444
CARLISLE	222	269	316	396	444	CARROLL	223	271	318	399	446
CASEY	213	258	304	380	426	CLAY	200	243	286	357	400
CLINTON	217	264	308	380	426	CRITTENDON	232	282	334	417	467
CUMBERLAND	217	264	308	380	426	EDMONSON	183	222	261	326	366
ELLIOTT	200	243	287	358	401	ESTILL	263	318	376	470	526
FLEMING	217	263	310	388	435	FLOYD	236	288	338	423	474
FRANKLIN	270	330	387	484	542	FULTON	222	269	316	396	444
GALLATIN	223	271	318	399	446	GARRARD	263	318	376	470	526
GRANT	223	271	318	399	446	GRAVES	222	269	316	396	444
GRAYSON	214	260	305	382	428	GREEN	217	264	308	380	426
HANCOCK	225	273	322	403	450	HARDIN	242	295	346	433	485
HARLAN	235	287	337	421	472	HARRISON	196	238	280	351	394
HART	183	222	261	326	366	HENRY	199	242	284	356	398
HICKMAN	222	269	316	396	444	HOPKINS	232	282	334	417	467
JACKSON	200	243	286	357	400	JOHNSON	236	288	338	423	474
KNOTT	223	270	318	398	446	KNOX	206	251	295	383	412
LARUE	214	260	305	382	428	LAUREL	200	279	351	365	400
LAWRENCE	200	243	287	358	401	LEE	223	270	318	398	446
LESLIE	223	270	318	398	446	LETCHER	223	270	318	398	446
LEWIS	217	263	310	388	435	LINCOLN	263	318	376	470	526
LIVINGSTON	201	244	288	359	402	LOGAN	233	284	335	419	469
LYON	201	244	288	359	402	MCCRACKEN	232	272	321	396	444
MCCREARY	217	264	308	380	426	MCLEAN	225	273	322	403	450
MADISON	263	318	379	470	526	MAGOFFIN	236	288	338	423	474
MARION	214	260	305	382	428	MARSHALL	232	272	321	396	444
MARTIN	236	288	338	423	474	MASON	217	263	310	388	435
MEADE	242	295	346	433	485	MENIFEE	217	264	310	388	435
MERCER	270	330	387	484	542	METCALFE	183	222	261	326	366
MONROE	183	222	261	326	366	MONTGOMERY	217	263	310	388	435
MORGAN	217	264	310	388	435	MUHLENBERG	232	282	334	417	467
NELSON	214	260	305	382	428	NICHOLAS	196	238	280	351	394
OHIO	225	273	322	403	450	OWEN	223	271	318	399	446
OWSLEY	223	270	318	398	446	PENDLETON	223	271	318	399	446
PERRY	223	270	318	398	446	PIKE	236	288	338	423	474
POWELL	196	238	280	351	394	PULASKI	217	264	308	380	426
ROBERTSON	217	263	310	388	435	ROCKCASTLE	200	243	286	357	400
ROWAN	217	263	310	388	435	RUSSELL	213	258	304	380	426
SIMPSON	233	284	335	419	469	SPENCER	199	242	284	356	398
TAYLOR	217	264	308	380	426	TODD	201	244	288	359	402
TRIGG	201	244	288	359	402	TRIMBLE	199	242	284	356	398
UNION	225	273	322	403	450	WARREN	233	284	335	419	469
WASHINGTON	214	260	305	382	428	WAYNE	217	264	308	380	426
WEBSTER	225	273	322	403	450	WHITLEY	235	287	337	421	472
WOLFE	223	270	318	398	446						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: LOUISIANA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALEXANDRIA, LA MSA COUNTY(IES): RAPIDES	248	301	355	444	496
BATON ROUGE, LA MSA COUNTY(IES): ASCENSION, E BATON ROUG, LIVINGSTON, W BATON ROUG	312	378	445	556	623
HOUMA-THIBODAUX, LA MSA COUNTY(IES): LAFOURCHE, TERREBONNE	276	335	394	492	552
LAFAYETTE, LA MSA COUNTY(IES): LAFAYETTE, ST MARTIN	312	378	445	556	623
LAKE CHARLES, LA MSA COUNTY(IES): CALCASIEU	251	302	353	440	492
MONROE, LA MSA COUNTY(IES): OUACHITA	247	300	353	442	494
NEW ORLEANS, LA MSA COUNTY(IES): JEFFERSON, ORLEANS, ST BERNARD, ST CHARLES, ST JOHN THE, ST TAMMANY	343	417	491	613	687
SHREVEPORT, LA MSA COUNTY(IES): BOSSIER, CADDO	281	341	403	503	563

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ACADIA	214	260	306	382	428	ALLEN	171	208	245	307	343
ASSUMPTION	185	225	263	330	370	AVOYELLES	211	256	302	378	423
BEAUREGARD	171	208	245	307	343	BIENVILLE	220	269	316	394	442
CALDWELL	170	207	243	304	340	CAMERON	171	208	245	307	343
CATAHOULA	211	256	302	378	423	CLAIBORNE	220	269	316	394	442
CONCORDIA	211	256	302	378	423	DE SOTO	220	269	316	394	442
EAST CARROLL	170	207	243	304	340	E FELICIANA	177	215	253	317	355
EVANGELINE	205	248	292	366	410	FRANKLIN	170	207	243	304	340
GRANT	211	256	302	378	423	IBERIA	252	308	361	452	506
IBERVILLE	177	215	253	317	355	JACKSON	170	207	243	304	340
JEFFERSON DA	171	208	245	307	343	LA SALLE	211	256	302	378	423
LINCOLN	220	269	316	394	442	MADISON	170	207	243	304	340
MOREHOUSE	170	207	243	304	340	NATCHITOCHES	220	269	316	394	442
PLAQUEMINES	310	375	442	553	618	POINTE COUPE	177	215	253	317	355
RED RIVER	220	269	316	394	442	RICHLAND	170	207	243	304	340
SABINE	220	269	316	394	442	ST HELENA	177	215	253	317	355
ST JAMES	185	225	263	330	370	ST LANDRY	205	248	292	366	410
ST MARY	252	308	361	452	506	TANGIPAHOA	200	243	286	357	401
TENSAS	170	207	243	304	340	UNION	170	207	243	304	340
VERMILION	214	260	306	382	428	VERNON	211	256	302	378	423
WASHINGTON	200	243	286	357	401	WEBSTER	191	233	274	342	383
WEST CARROLL	170	207	243	304	340	W FELICIANA	177	215	253	317	355
WINN	211	256	302	378	423						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: MAINE	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BANGOR, ME MSA	300	365	429	537	602
COUNTY: PENOBSCOT TOWNS OF BANGOR, BREWER, EDDINGTON GLENBURN, HAMPDEN, HERMON, HOLDEN, KENDUSKEAG, OLD TOWN, ORONO ORRINGTON, PENOBSCOT IN, VEAZIE					
COUNTY: WALDO TOWNS OF WINTERPORT					
LEWISTON-AUBURN, ME MSA	316	376	425	475	540
COUNTY: ANDROSCOGGIN TOWNS OF AUBURN, GREENE, LEWISTON, LISBON, MECHANIC FAL, POLAND, SABATTUS					
PORTLAND, ME MSA	368	469	592	664	798
COUNTY: CUMBERLAND TOWNS OF CAPE ELIZABE, CUMBERLAND, FALMOUTH, FREEPORT, GORHAM, GRAY, NORTH YARMOU, PORTLAND, RAYMOND SCARBOROUGH, SOUTH PORTLA, STANDISH, WESTBROOK, WINDHAM, YARMOUTH					
COUNTY: YORK TOWNS OF BUXTON, HOLLIS, OLD ORCHARD					
PORTSMOUTH-DOVER-ROCHESTER, NH-ME MSA	395	481	565	706	791
COUNTY: YORK TOWNS OF BERWICK, ELIOT, KITTERY, NORTH BERWIC, SOUTH BERWIC, WELLS, YORK					

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANDROSCOGGIN COUNTY TOWNS OF DURHAM, LEEDS, LIVERMORE, LIVERMORE FA MINOT, TURNER, WALES	274	324	383	469	518
AROOSTOOK COUNTY	279	339	400	499	559
CUMBERLAND COUNTY TOWNS OF BALDWIN, BRIDGTON, BRUNSWICK, CASCO HARPSWELL, HARRISON, NAPLES, NEW GLOUCEST, POWNAL, SEBAGO	309	375	441	548	610
FRANKLIN COUNTY	291	329	391	463	525
HANCOCK COUNTY	293	348	408	509	568
KENNEBEC COUNTY	293	356	419	525	587
KNOX COUNTY	283	344	405	507	568
LINCOLN COUNTY	279	338	399	499	558
OXFORD COUNTY	291	329	391	463	525
PENOBSCOT COUNTY TOWNS OF ALTON, ARGYLE, BRADFORD, BRADLEY, BURLINGTON	288	348	405	507	568
CARMEL, CARROLL, CHARLESTON, CHESTER, CLIFTON, CORINNA, CORINTH, DEXTER, DIXMONT, DREW, EAST MILLINO, EDINBURG ENFIELD, ETNA, EXETER, GARLAND, GRAND FALLS, GREENBUSH, GREENFIELD, HOWLAND, HUDSON, KINGMAN, LAGRANGE, LAKEVILLE LEE, LEVANT, LINCOLN, LOWELL, MATTAWAMKEAG, MAXFIELD, MEDWAY, MILFORD, MILLINOCKET, MOUNT CHASE, NEWBURGH, NEWPORT NORTH PENOBS, PASSADUMKEAG, PATTEN, PLYMOUTH, PRENTISS, SEBOEIS, SPRINGFIELD, STACYVILLE, STETSON, SUMMIT, TWOMBLY WEBSTER, WHITNEY, WINN, WOODVILLE					
PISCATAQUIS COUNTY	241	293	345	433	484
SAGADAHOC COUNTY	319	430	463	540	633
SOMERSET COUNTY	279	338	399	499	558
WALDO COUNTY TOWNS OF BELFAST, BELMONT, BROOKS, BURNHAM, FRANKFORT	283	344	405	507	568
FREEDOM, ISLESBORO, JACKSON, KNOX, LIBERTY, LINCOLNVILLE, MONROE, MONTVILLE, MORRILL, NORTHPORT, PALERMO, PROSPECT SEARSMONT, SEARSPORT, STOCKTON SPR, SWANVILLE, THORNDIKE, TROY, UNITY, WALDO					
WASHINGTON COUNTY	283	344	405	507	568
YORK COUNTY TOWNS OF ACTON, ALFRED, ARUNDEL, BIDDEFORD, CORNISH, DAYTON	353	416	525	540	655
KENNEBUNK, KENNEBUNKPOR, LEBANON, LIMERICK, LIMINGTON, LYMAN, NEWFIELD, PARSONSFIELD, SACO, SANFORD, SHAPLEIGH WATERBORO					

S T A T E: MARYLAND	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BALTIMORE, MD MSA	349	424	499	624	699
COUNTY(IES): ANNE ARUNDEL, BALTIMORE, CARROLL, HARFORD, HOWARD, QUEEN ANNES, BALTIMORE					
COLUMBIA, MD MSA	444	539	635	792	888
COUNTY(IES): COLUMBIA					
CUMBERLAND, MD-WV MSA	258	307	359	444	496
COUNTY(IES): ALLEGANY					
HAGERSTOWN, MD MSA	289	351	413	517	578
COUNTY(IES): WASHINGTON					
WASHINGTON, DC-MD-VA MSA	412	501	590	741	830
COUNTY(IES): CALVERT, CHARLES, FREDERICK, MONTGOMERY, PRINCE GEORG					
WILMINGTON, DE-NJ-MD PMSA	367	439	522	652	776
COUNTY(IES): CECIL					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CAROLINE	273	327	385	482	540	DORCHESTER	280	340	401	501	561
GARRETT	259	315	371	463	519	KENT	285	347	408	511	571
ST MARYS	359	434	507	635	703	SOMERSET	280	340	401	501	561
TALBOT	312	379	446	558	624	WICOMICO	333	407	476	502	561
WORCESTER	282	344	401	501	561						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: MASSACHUSETTS	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOSTON, MA PMSA	530	644	759	948	1062
COUNTY: BRISTOL TOWNS OF MANSFIELD, NORTON, RAYNHAM					
COUNTY: ESSEX TOWNS OF LYNN, LYNNFIELD, NAHANT, SAUGUS					
COUNTY: MIDDLESEX TOWNS OF ACTON, ARLINGTON, ASHLAND, AYER, BEDFORD, BELMONT, BOXBOROUGH, BURLINGTON, CAMBRIDGE, CARLISLE CONCORD, EVERETT, FRAMINGHAM, GROTON, HOLLISTON, HOPKINTON, HUDSON, LEXINGTON, LINCOLN, LITTLETON, MALDEN MARLBOROUGH, MAYNARD, MEDFORD, MELROSE, NATICK, NEWTON, NORTH READIN, READING, SHERBORN, SHIRLEY SOMERVILLE, STONEHAM, STOW, SUDBURY, TOWNSEND, WAKEFIELD, WALTHAM, WATERTOWN, WAYLAND, WESTON, WILMINGTON WINCHESTER, WOBURN					
COUNTY: NORFOLK TOWNS OF BELLINGHAM, BRAINTREE, BROOKLINE, CANTON, COHASSET, DEDHAM, DOVER, FOXBOROUGH, FRANKLIN, HOLBROOK MEDFIELD, MEDWAY, MILLIS, MILTON, NEEDHAM, NORFOLK, NORWOOD, QUINCY, RANDOLPH, SHARON, STOUGHTON, WALPOLE WELLESLEY, WESTWOOD, WEYMOUTH, WRENTHAM					
COUNTY: PLYMOUTH TOWNS OF CARVER, DUXBURY, HANOVER, HANSON, HINGHAM, HULL, KINGSTON, LAKEVILLE, MARSHFIELD, MIDDLEBOROUG NORWELL, PEMBROKE, PLYMOUTH, PLYMPTON, ROCKLAND, SCITUATE					
COUNTY: SUFFOLK TOWNS OF BOSTON, CHELSEA, REVERE, WINTHROP					
COUNTY: WORCESTER TOWNS OF BERLIN, BOLTON, HARVARD, HOPEDALE, LANCASTER, MENDON, MILFORD, SOUTHBOROUGH, UPTON					
BROCKTON, MA PMSA	396	478	599	726	814
COUNTY: BRISTOL TOWNS OF EASTON					
COUNTY: NORFOLK TOWNS OF AVON					
COUNTY: PLYMOUTH TOWNS OF ABINGTON, BRIDGEWATER, BROCKTON, EAST BRIDGEW, HALIFAX, WEST BRIDGEW, WHITMAN					
FALL RIVER, MA-RI PMSA	350	417	501	580	640
COUNTY: BRISTOL TOWNS OF FALL RIVER, SOMERSET, SWANSEA, WESTPORT					
FITCHBURG-LEOMINSTER, MA MSA	383	464	547	683	766
COUNTY: MIDDLESEX TOWNS OF ASHBY					
COUNTY: WORCESTER TOWNS OF ASHBURNHAM, FITCHBURG, LEOMINSTER, LUNENBURG, WESTMINSTER					
LAWRENCE-HAVERHILL, MA-NH PMSA	423	515	617	705	784
COUNTY: ESSEX TOWNS OF AMESBURY, ANDOVER, BOXFORD, GEORGETOWN, GROVELAND, HAVERHILL, LAWRENCE, MERRIMAC, METHUEN, NEWBURY NEWBURYPORT, NORTH ANDOVE, SALISBURY, WEST NEWBURY					
LOWELL, MA-NH PMSA	407	495	577	699	797
COUNTY: MIDDLESEX TOWNS OF BILLERICA, CHELMSFORD, DRACUT, DUNSTABLE, LOWELL, PEPPERELL, TEWKSBURY, TYNGSBOROUGH, WESTFORD					
NEW BEDFORD, MA MSA	357	401	474	580	640
COUNTY: BRISTOL TOWNS OF ACUSHNET, DARTMOUTH, FAIRHAVEN, FREETOWN, NEW BEDFORD					
COUNTY: PLYMOUTH TOWNS OF MARION, MATTAPOISETT, ROCHESTER					
PAWTUCKET-WOONSOCKET-ATTLEBORO, RI-MA PMSA	340	412	485	595	679
COUNTY: BRISTOL TOWNS OF ATTLEBORO, NORTH ATTLEB, REHOBOTH, SEEKONK					
COUNTY: NORFOLK TOWNS OF PLAINVILLE					
COUNTY: WORCESTER TOWNS OF BLACKSTONE, MILLVILLE					
PITTSFIELD, MA MSA	354	429	502	624	703
COUNTY: BERKSHIRE TOWNS OF CHESHIRE, DALTON, HINSDALE, LANESBOROUGH, LEE, LENOX, PITTSFIELD, RICHMOND, STOCKBRIDGE					
SALEM-GLOUCESTER, MA PMSA	472	572	674	842	943
COUNTY: ESSEX TOWNS OF BEVERLY, DANVERS, ESSEX, GLOUCESTER, HAMILTON, IPSWICH, MANCHESTER, MARBLEHEAD, MIDDLETON, PEABODY ROCKPORT, ROWLEY, SALEM, SWAMPSCOTT, TOPSFIELD, WENHAM					
SPRINGFIELD, MA MSA	362	440	513	640	719
COUNTY: HAMPDEN TOWNS OF AGAWAM, CHICOPEE, EAST LONGMEA, HAMPDEN, HOLYOKE, LONGMEADOW, LUDLOW, MONSON, MONTGOMERY, PALMER RUSSELL, SOUTHWICK, SPRINGFIELD, WESTFIELD, WEST SPRINGF, WILBRAHAM					
COUNTY: HAMPSHIRE TOWNS OF BELCHERTOWN, EASTHAMPTON, GRANBY, HUNTINGTON, NORTHAMPTON, SOUTHAMPTON, SOUTH HADLEY					
WORCESTER, MA MSA	367	451	529	663	741
COUNTY: WORCESTER TOWNS OF AUBURN, BARRE, BOYLSTON, BROOKFIELD, CHARLTON, CLINTON, DOUGLAS, DUDLEY, EAST BROOKFI, GRAFTON HOLDEN, LEICESTER, MILLBURY, NORTHBOROUGH, NORTHBRIDGE, NORTH BROOKF, OXFORD, PAXTON, PRINCETON, RUTLAND SHREWSBURY, SPENCER, STERLING, SUTTON, UXBRIDGE, WEBSTER, WESTBOROUGH, WEST BOYLSTO, WORCESTER					

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BARNSTABLE COUNTY	474	585	669	836	937
BERKSHIRE COUNTY TOWNS OF ADAMS, ALFORD, BECKET, CLARKSBURG, EGREMONT	312	379	446	557	624
FLORIDA, GREAT BARRIN HANCOCK, MONTEREY, MOUNT WASHIN, NEW ASHFORD, NEW MARLBORO, NORTH ADAMS, OTIS, PERU SANDISFIELD, SAVOY, SHEFFIELD, TYRINGHAM, WASHINGTON, WEST STOCKBR, WILLIAMSTOWN, WINDSOR					
BRISTOL COUNTY TOWNS OF BERKLEY, DIGHTON, TAUNTON	345	417	491	590	657
DUKES COUNTY	474	585	669	836	937
FRANKLIN COUNTY	362	429	501	630	702
HAMPDEN COUNTY TOWNS OF BLANDFORD, BRIMFIELD, CHESTER, GRANVILLE	326	396	466	583	653
HOLLAND, TOLLAND, WALES					
HAMPSHIRE COUNTY TOWNS OF AMHERST, CHESTERFIELD, CUMMINGTON, GOSHEN	424	491	602	724	841
HADLEY, HATFIELD, MIDDLEFIELD, PELHAM, PLAINFIELD, WARE, WESTHAMPTON, WILLIAMSBURG, WORTHINGTON					
NANTUCKET COUNTY	474	585	669	836	937
PLYMOUTH COUNTY TOWNS OF WAREHAM	345	408	479	592	659
WORCESTER COUNTY TOWNS OF ATHOL, GARDNER, HARDWICK, HUBBARDSTON	345	407	491	602	669
NEW BRAINTRE, OAKHAM, PETERSHAM, PHILLIPSTON, ROYALSTON, SOUTHBRIDGE, STURBRIDGE, TEMPLETON WARREN, WEST BROOKFI					
WINCHENDON					

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

STATE: MICHIGAN	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANN ARBOR, MI PMSA COUNTY(IES): WASHTENAW	382	464	547	683	765
BATTLE CREEK, MI MSA COUNTY(IES): CALHOUN	259	314	369	463	519
BENTON HARBOR, MI MSA COUNTY(IES): BERRIEN	288	350	410	513	575
DETROIT, MI PMSA COUNTY(IES): LAPEER, LIVINGSTON, MACOMB, MONROE, OAKLAND, ST CLAIR, WAYNE	355	427	498	621	692
FLINT, MI MSA COUNTY(IES): GENESEE	272	331	391	489	546
GRAND RAPIDS, MI MSA COUNTY(IES): KENT, OTTAWA	255	313	366	457	516
JACKSON, MI MSA COUNTY(IES): JACKSON	285	345	406	507	569
KALAMAZOO, MI MSA COUNTY(IES): KALAMAZOO	297	357	420	516	575
LANSING-EAST LANSING, MI MSA COUNTY(IES): CLINTON EATON, INGHAM	311	373	437	542	606
MUSKEGON, MI MSA COUNTY(IES): MUSKEGON	253	307	362	453	506
SAGINAW-BAY CITY-MIDLAND, MI MSA COUNTY(IES): BAY, MIDLAND, SAGINAW	281	339	398	499	558

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALCONA	226	275	324	405	454	ALGER	223	270	320	399	447
ALLEGAN	262	319	374	468	525	ALPENA	226	275	324	405	454
ANTRIM	283	342	403	504	565	ARENAC	248	302	356	444	498
BARAGA	231	280	330	413	463	BARRY	264	321	378	472	529
BENZIE	283	342	403	504	565	BRANCH	264	321	378	472	529
CASS	257	311	366	459	513	CHARLEVOIX	283	342	403	504	565
CHEBOYGAN	226	275	324	405	454	CHIPPEWA	223	270	320	399	447
CLARE	248	302	356	444	498	CRAWFORD	226	275	324	405	454
DELTA	223	270	320	399	447	DICKINSON	231	293	345	431	484
EMMET	283	342	403	504	565	GLADWIN	248	302	356	444	498
GOGEBIC	231	280	330	413	463	GRD TRAVERSE	283	342	403	504	565
GRATIOT	284	344	404	506	567	HILLSDALE	281	340	401	502	563
HOUGHTON	231	280	330	413	463	HURON	255	309	363	455	509
IONIA	265	320	376	469	525	IOSCO	248	302	356	444	498
IRON	231	280	330	413	463	ISABELLA	284	344	404	506	567
KALKASKA	283	342	403	504	565	KEWEENAW	231	280	330	413	463
LAKE	260	316	371	464	521	LEELANAU	283	342	403	504	565
LENAWEE	281	340	401	502	563	LUCE	223	270	320	399	447
MACKINAC	223	270	320	399	447	MANISTEE	283	342	403	504	565
MARQUETTE	283	342	403	504	565	MASON	260	316	371	464	521
MECOSTA	260	316	371	464	521	MENOMINEE	283	342	403	504	565
MISSAUKEE	283	342	403	504	565	MONTCALM	262	319	374	468	525
MONTMORENCY	226	275	324	405	454	NEWAYGO	260	316	371	464	521
OCEANA	252	305	360	451	504	OGEMAW	248	302	356	444	498
ONTONAGON	231	280	330	413	463	OSCEOLA	260	316	371	464	521
OSCODA	226	275	324	405	454	OTSEGO	226	275	324	405	454
PRESQUE ISLE	226	275	324	405	454	ROSCOMMON	248	302	356	444	498
ST JOSEPH	264	321	378	472	529	SANILAC	255	309	363	455	509
SCHOOLCRAFT	223	270	320	399	447	SHIAWASSEE	280	339	400	500	561
TUSCOLA	255	309	363	455	509	VAN BUREN	257	311	366	459	513
WEXFORD	283	342	403	504	565						

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: MINNESOTA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DULUTH, MN-WI MSA	288	343	404	506	567
COUNTY(IES): ST LOUIS					
FARGO-MOORHEAD, ND-MN MSA	289	351	413	518	580
COUNTY(IES): CLAY					
MINNEAPOLIS-ST. PAUL, MN-WI MSA	359	435	516	645	720
COUNTY(IES): ANOKA, CARVER, CHISAGO, DAKOTA, HENNEPIN, ISANTI, RAMSEY, SCOTT, WASHINGTON, WRIGHT					
ROCHESTER, MN MSA	305	370	436	545	610
COUNTY(IES): OLMSTED					
ST. CLOUD, MN MSA	291	353	415	520	582
COUNTY(IES): BENTON. SHERBURNE, STEARNS					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AITKIN	261	318	374	468	524	BECKER	260	317	372	466	522
BELTRAMI	251	305	358	448	503	BIG STONE	232	283	333	417	466
BLUE EARTH	291	352	408	504	557	BROWN	247	301	354	443	495
CARLTON	263	320	374	468	524	CASS	245	297	351	439	491
CHIPPEWA	232	283	333	417	466	CLEARWATER	251	305	358	448	503
COOK	261	318	374	468	524	COTTONWOOD	232	283	333	417	466
CROW WING	245	297	372	460	512	DODGE	236	286	336	420	471
DOUGLAS	260	317	372	466	522	FARIBAULT	247	301	354	443	495
FILLMORE	241	292	345	431	482	FREEBORN	284	345	407	508	569
GOODHUE	251	305	356	443	495	GRANT	260	317	372	466	522
HOUSTON	241	292	345	431	482	HUBBARD	251	305	358	448	503
ITASCA	263	320	374	468	524	JACKSON	240	289	338	420	467
KANABEC	261	318	374	468	524	KANDIYOHI	274	333	391	490	548
KITTSON	251	305	358	448	503	KOOCHICHING	261	318	374	468	524
LAC QUI PARL	232	283	333	417	466	LAKE	261	318	374	468	524
LAKE OF WOOD	251	305	358	448	503	LE SUEUR	272	331	388	485	544
LINCOLN	240	289	338	420	467	LYON	240	289	338	420	467
MCLEOD	274	333	391	490	548	MAHNOMEN	251	305	358	448	503
MARSHALL	251	305	358	448	503	MARTIN	247	301	354	443	495
MEEKER	274	333	391	490	548	MILLE LACS	261	318	374	468	524
MORRISON	245	297	351	439	491	MOWER	241	292	345	431	482
MURRAY	240	289	338	420	467	NICOLLET	272	331	388	485	544
NOBLES	240	289	338	420	467	NORMAN	251	305	358	448	503
OTTER TAIL	260	317	372	466	522	PENNINGTON	251	305	358	448	503
PINE	261	318	374	468	524	PIPESTONE	240	289	338	420	467
POLK	251	305	358	448	503	POPE	260	317	372	466	522
RED LAKE	251	305	358	448	503	REDWOOD	232	283	333	417	466
RENVILLE	274	333	391	490	548	RICE	284	345	407	508	569
ROCK	240	289	338	420	467	ROSEAU	251	305	358	448	503
SIBLEY	272	331	388	485	544	STEELE	284	345	407	508	569
STEVENS	260	317	372	466	522	SWIFT	232	283	333	417	466
TODD	245	297	351	439	491	TRAVERSE	260	317	372	466	522
WABASHA	251	305	356	443	495	WADENA	245	297	351	439	491
WASECA	247	301	354	443	495	WATONWAN	247	301	354	443	495
WILKIN	260	317	372	466	522	WINONA	242	292	345	431	482
YELLOW MEDIC	232	283	333	417	466						

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

STATE MISSISSIPPI

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BILOXI-GULFPORT, MS MSA COUNTY(IES): HANCOCK HARRISON	246	300	353	442	494
JACKSON, MS MSA COUNTY(IES): HINDS, MADISON, RANKIN	313	380	448	560	628
MEMPHIS, TN-AR-MS MSA COUNTY(IES): DE SOTO	258	317	374	464	522
PASCAGOULA, MS MSA COUNTY(IES): JACKSON	269	326	383	481	539

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	216	251	295	391	423
AMITE	180	218	257	321	360
BENTON	201	245	289	362	405
CALHOUN	236	287	338	422	477
CHICKASAW	243	287	338	426	474
CLAIBORNE	180	218	257	321	360
CLAY	233	271	318	399	447
COPIAH	190	231	272	340	381
FORREST	234	285	335	418	469
GEORGE	183	222	262	327	366
GRENADA	181	220	258	323	362
HUMPHREYS	208	253	298	372	416
ITAWAMBA	222	269	317	397	444
JEFFERSON	180	218	257	321	360
JONES	236	274	309	351	391
LAFAYETTE	236	287	338	422	474
LAUDERDALE	232	281	332	415	465
LEAKE	199	242	286	358	401
LEFLORE	236	262	308	401	432
LOWNDES	257	318	365	488	509
MARSHALL	201	245	289	362	405
MONTGOMERY	181	220	258	323	362
NEWTON	199	242	286	358	401
OKTIBBEHA	223	271	318	399	447
PEARL RIVER	234	285	335	418	469
PIKE	216	251	295	391	423
PRENTISS	201	245	289	362	405
SCOTT	199	242	286	358	401
SIMPSON	190	231	272	340	381
STONE	234	285	335	418	469
TALLAHATCHIE	218	264	310	387	436
TIPPAH	201	245	289	362	405
TUNICA	218	264	310	387	436
WALTHALL	180	218	257	321	360
WASHINGTON	208	253	298	372	416
WEBSTER	233	271	318	399	447
WINSTON	233	271	318	399	447
YAZOO	264	321	377	472	529
ALCORN	215	261	307	383	430
ATTALA	181	220	258	323	362
BOLIVAR	208	253	298	372	416
CARROLL	181	220	258	323	362
CHOCTAW	233	271	318	399	447
CLARKE	234	284	332	415	465
COAHOMA	218	264	310	387	436
COVINGTON	183	222	262	327	366
FRANKLIN	180	218	257	321	360
GREENE	183	222	262	327	366
HOLMES	181	220	258	323	362
ISSAQUENA	208	253	298	372	416
JASPER	234	284	332	415	465
JEFFERSON DA	183	222	262	327	366
KEMPER	234	284	332	415	465
LAMAR	234	285	335	418	469
LAWRENCE	180	218	257	321	360
LEE	235	287	336	420	469
LINCOLN	180	218	257	321	360
MARION	234	285	335	418	469
MONROE	222	269	317	397	444
NESHOBA	199	242	286	358	401
NOXUBEE	223	271	318	399	447
PANOLA	218	264	310	387	436
PERRY	183	222	262	327	366
PONTOTOC	243	287	338	426	474
QUITMAN	218	264	310	387	436
SHARKEY	208	253	298	372	416
SMITH	199	242	286	358	401
SUNFLOWER	208	253	298	372	416
TATE	218	264	310	387	436
TISHOMIGO	201	245	289	362	405
UNION	243	287	338	426	474
WARREN	264	321	377	472	529
WAYNE	183	222	262	327	366
WILKINSON	180	218	257	321	360
YALOBUSHA	181	220	258	323	362

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E MISSOURI	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBIA, MO MSA COUNTY(IES): BOONE	282	343	405	506	568
JOPLIN, MO MSA COUNTY(IES): JASPER, NEWTON	218	266	312	391	438
KANSAS CITY, MO-KS MSA COUNTY(IES): CASS, CLAY, JACKSON, LAFAYETTE, PLATTE, RAY	292	354	416	520	582
ST. JOSEPH, MO MSA COUNTY(IES): BUCHANEN	232	281	332	414	465
ST LOUIS, MO-IL MSA COUNTY(IES): FRANKLIN, JEFFERSON, ST CHARLES, ST LOUIS, ST. LOUIS	303	369	435	546	611
SPRINGFIELD, MO MSA COUNTY(IES): CHRISTIAN, GREENE	242	296	347	435	486

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAIR	221	268	315	396	443	ANDREW	232	281	332	414	465
ATCHISON	209	255	300	375	420	AUDRAIN	245	298	350	439	491
BARRY	204	247	293	366	409	BARTON	199	241	284	355	399
BATES	199	241	284	355	399	BENTON	199	241	284	355	399
BOLLINGER	234	285	335	418	470	BUTLER	193	235	279	348	389
CALDWELL	209	255	301	375	420	CALLAWAY	245	298	350	439	491
CAMDEN	224	271	318	399	447	CAPE GIRARDE	234	285	335	418	470
CARROLL	215	262	308	384	432	CARTER	193	235	279	348	389
CEDAR	199	241	284	355	399	CHARITON	215	262	308	384	432
CLARK	221	268	315	396	443	CLINTON	209	255	300	375	420
COLE	245	298	350	439	491	COOPER	245	298	350	439	491
CRAWFORD	214	261	306	383	430	DADE	204	247	293	366	409
DALLAS	204	247	293	366	409	DAVIESS	209	255	301	375	420
DE KALB	209	255	300	375	420	DENT	214	261	306	383	430
DOUGLAS	193	235	276	345	386	DUNKLIN	193	235	276	345	386
GASCONADE	214	261	306	383	430	GENTRY	209	255	300	375	420
GRUNDY	221	268	315	396	443	HARRISON	209	255	301	375	420
HENRY	199	241	284	355	399	HICKORY	199	241	284	355	399
HOLT	209	255	300	375	420	HOWARD	245	298	350	439	491
HOWELL	193	235	276	345	386	IRON	234	285	335	418	470
JOHNSON	224	272	320	401	448	KNOX	221	268	315	396	443
LACLEDE	224	271	318	399	447	LAWRENCE	204	247	293	366	409
LEWIS	219	265	312	389	433	LINCOLN	214	261	306	383	430
LINN	221	268	315	396	443	LIVINGSTON	221	268	315	396	443
MCDONALD	204	247	293	366	409	MACON	214	261	306	383	430
MADISON	234	285	335	418	470	MARIES	214	261	306	383	430
MARION	219	265	312	389	433	MERCER	209	255	301	375	420
MILLER	224	271	318	399	447	MISSISSIPPI	193	235	276	345	386
MONITEAU	245	298	350	439	491	MONROE	214	261	306	383	430
MONTGOMERY	214	261	306	383	430	MORGAN	224	271	318	399	447
NEW MADRID	193	235	276	345	386	NODAWAY	217	255	308	375	420
OREGON	193	235	276	345	386	OSAGE	245	298	350	439	491
OZARK	193	235	276	345	386	PEMISCOT	193	235	276	345	386
PERRY	234	285	335	418	470	PETTIS	215	262	308	384	432
PHELPS	249	302	355	450	504	PIKE	214	261	306	383	430
POLK	204	247	293	366	409	PULASKI	224	271	318	399	447
PUTNAM	221	268	315	396	443	RALLS	219	265	312	389	433
RANDOLPH	214	261	306	383	430	REYNOLDS	193	235	276	345	386
RIPLEY	193	235	279	348	389	ST CLAIR	199	241	284	355	399
STE GENEVIEV	234	285	335	418	470	ST FRANCOIS	234	285	335	418	470
SALINE	215	262	308	384	432	SCHUYLER	221	268	315	396	443
SCOTLAND	221	268	315	396	443	SCOTT	234	285	335	418	470
SHANNON	193	235	276	345	386	SHELBY	214	261	306	383	430
STODDARD	193	235	276	345	386	STONE	204	247	293	366	409
SULLIVAN	221	268	315	396	443	TANEY	204	247	293	366	409
TEXAS	193	235	276	345	386	VERNON	199	241	284	355	399
WARREN	214	261	306	383	430	WASHINGTON	214	261	306	383	430
WAYNE	193	235	279	348	389	WEBSTER	204	247	293	366	409
WORTH	209	255	300	375	420	WRIGHT	193	235	276	345	386

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: MONTANA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BILLINGS, MT MSA COUNTY(IES): YELLOWSTONE	334	407	479	598	670
GREAT FALLS, MT MSA COUNTY(IES): CASCADE	288	350	413	516	577

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BEAVERHEAD	287	349	411	513	575
BLAINE	268	325	383	479	536
CARBON	270	328	387	484	542
CHOUTEAU	268	325	383	479	536
DANIELS	268	325	383	479	536
DEER LODGE	287	349	411	513	575
FERGUS	270	328	387	484	542
GALLATIN	317	389	460	570	641
GLACIER	268	325	383	479	536
GRANITE	287	349	411	513	575
JEFFERSON	287	349	411	513	575
LAKE	293	357	419	525	588
LIBERTY	268	325	383	479	536
MCCONE	270	328	387	484	542
MEAGHER	287	349	411	513	575
MISSOULA	293	357	419	525	588
PARK	287	349	411	513	575
PHILLIPS	268	325	383	479	536
POWDER RIVER	270	328	387	484	542
PRAIRIE	270	328	387	484	542
RICHLAND	270	328	387	484	542
ROSEBUD	270	328	387	484	542
SHERIDAN	268	325	383	479	536
STILLWATER	270	328	387	484	542
TETON	268	325	383	479	536
TREASURE	270	328	387	484	542
WHEATLAND	270	328	387	484	542
YL-ST-NT-PK	287	349	411	513	575
BIG HORN	270	328	387	484	542
BROADWATER	287	349	411	513	575
CARTER	270	328	387	484	542
CUSTER	270	328	387	484	542
DAWSON	270	328	387	484	542
FALLON	270	328	387	484	542
FLATHEAD	293	357	419	525	588
GARFIELD	270	328	387	484	542
GOLDEN VALLE	270	328	387	484	542
HILL	268	325	383	479	536
JUDITH BASIN	270	328	387	484	542
LEWIS+ CLARK	328	405	477	591	668
LINCOLN	293	357	419	525	588
MADISON	287	349	411	513	575
MINERAL	293	357	419	525	588
MUSSELSHELL	270	328	387	484	542
PETROLEUM	270	328	387	484	542
PONDERA	268	325	383	479	536
POWELL	287	349	411	513	575
RAVALLI	293	357	419	525	588
ROOSEVELT	268	325	383	479	536
SANDERS	293	357	419	525	588
SILVER BOW	287	349	411	513	575
SWEET GRASS	270	328	387	484	542
TOOLE	268	325	383	479	536
VALLEY	268	325	383	479	536
WIBAUX	270	328	387	484	542

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: NEBRASKA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LINCOLN, NE MSA COUNTY(IES): LANCASTER	286	347	408	511	572
OMAHA, NE-IA MSA COUNTY(IES): DOUGLAS, SARPY, WASHINGTON	281	340	401	502	563
SIOUX CITY, IA-NE MSA COUNTY(IES): DAKOTA	278	338	398	498	558

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	256	311	366	458	512	ANTELOPE	248	301	356	443	498
ARTHUR	217	263	309	387	433	BANNER	210	255	299	374	421
BLAINE	210	255	299	374	421	BOONE	229	279	328	410	460
BOX BUTTE	238	291	341	427	478	BOYD	210	255	299	374	421
BROWN	210	255	299	374	421	BUFFALO	256	311	366	458	512
BURT	229	279	328	410	460	BUTLER	226	275	324	404	454
CASS	226	275	324	404	454	CEDAR	248	301	356	443	498
CHASE	217	263	309	387	433	CHERRY	210	255	299	374	421
CHEYENNE	210	255	299	374	421	CLAY	256	311	366	458	512
COLFAX	229	279	328	410	460	CUMING	229	279	328	410	460
CUSTER	210	255	299	374	421	DAWES	210	255	299	374	421
DAWSON	217	263	309	387	433	DEUEL	210	255	299	374	421
DIXON	248	301	356	443	498	DODGE	229	279	328	410	460
DUNDY	217	263	309	387	433	FILLMORE	226	275	324	404	454
FRANKLIN	256	311	366	458	512	FRONTIER	217	263	309	387	433
FURNAS	217	263	309	387	433	GAGE	251	303	358	447	501
GARDEN	210	255	299	374	421	GARFIELD	210	255	299	374	421
GOSPER	217	263	309	387	433	GRANT	217	263	309	387	433
GREELEY	210	255	299	374	421	HALL	256	311	366	458	512
HAMILTON	256	311	366	458	512	HARLAN	256	311	366	458	512
HAYES	217	263	309	387	433	HITCHCOCK	217	263	309	387	433
HOLT	214	262	307	383	427	HOOKER	217	263	309	387	433
HOWARD	256	311	366	458	512	JEFFERSON	226	275	324	404	454
JOHNSON	226	275	324	404	454	KEARNEY	256	311	366	458	512
KEITH	217	263	309	387	433	KEYA PAHA	214	262	307	383	427
KIMBALL	210	255	299	374	421	KNOX	248	301	356	443	498
LINCOLN	217	263	309	387	433	LOGAN	217	263	309	387	433
LOUP	210	255	299	374	421	MCPHERSON	217	263	309	387	433
MADISON	248	301	356	443	498	MERRICK	256	311	366	458	512
MORRILL	210	255	299	374	421	NANCE	229	279	328	410	460
NEMAHA	226	275	324	404	454	NUCKOLLS	256	311	366	458	512
OTOE	226	275	324	404	454	PAWNEE	226	275	324	404	454
PERKINS	217	263	309	387	433	PHELPS	256	311	366	458	512
PIERCE	248	301	356	443	498	PLATTE	229	279	328	410	460
POLK	226	275	324	404	454	RED WILLOW	217	263	309	387	433
RICHARDSON	226	275	324	404	454	ROCK	214	262	307	383	427
SALINE	226	275	324	404	454	SAUNDERS	226	275	324	404	454
SCOTTS BLUFF	244	294	341	424	472	SEWARD	226	275	324	404	454
SHERIDAN	210	255	299	374	421	SHERMAN	210	255	299	374	421
SIOUX	210	255	299	374	421	STANTON	248	301	356	443	498
THAYER	226	275	324	404	454	THOMAS	217	263	309	387	433
THURSTON	229	279	328	410	460	VALLEY	210	255	299	374	421
WAYNE	248	301	356	443	498	WEBSTER	256	311	366	458	512
WHEELER	210	255	299	374	421	YORK	226	275	324	404	454

S T A T E: NEVADA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LAS VEGAS, NV MSA COUNTY(IES): CLARK	405	491	579	724	811
RENO, NV MSA COUNTY(IES): WASHOE	499	606	714	892	1000

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHURCHILL	356	428	504	629	706	DOUGLAS	356	428	504	629	706
ELKO	356	428	504	629	706	ESMERALDA	353	428	504	629	706
EUREKA	353	428	504	629	706	HUMBOLDT	356	428	504	629	706
LANDER	356	428	504	629	706	LINCOLN	353	428	504	629	706
LYON	356	428	504	629	706	MINERAL	356	428	504	629	706
NYE	353	428	504	629	706	PERSHING	356	428	504	629	706
STOREY	356	428	504	629	706	WHITE PINE	353	428	504	629	706
CARSON CITY	356	428	504	629	706						

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: NEW HAMPSHIRE	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LAWRENCE-HAVERHILL, MA-NH PMSA	423	515	617	705	784
COUNTY: ROCKINGHAM TOWNS OF ATKINSON, BRENTWOOD, DANVILLE, DERRY, EAST KINGSTO, HAMPSTEAD, KINGSTON, NEWTON, PLAISTOW SALEM, SANDOWN, SEABROOK, WINDHAM					
LOWELL, MA-NH PMSA	407	495	577	699	797
COUNTY: HILLSBOROUGH TOWNS OF PELHAM					
MANCHESTER, NH MSA	381	463	544	680	763
COUNTY: HILLSBOROUGH TOWNS OF BEDFORD, GOFFSTOWN, MANCHESTER					
COUNTY: MERRIMACK TOWNS OF ALLENSTOWN, HOOKSETT					
COUNTY: ROCKINGHAM TOWNS OF AUBURN, CANDIA					
NASHUA, NH PMSA	425	516	607	760	851
COUNTY: HILLSBOROUGH TOWNS OF AMHERST, BROOKLINE, HOLLIS, HUDSON, LITCHFIELD, MERRIMACK, MILFORD, MONT VERNON, NASHUA WILTON					
COUNTY: ROCKINGHAM TOWNS OF LONDONDERRY					
PORTSMOUTH-DOVER-ROCHESTER, NH-ME MSA	395	481	565	706	791
COUNTY: ROCKINGHAM TOWNS OF EXETER, GREENLAND, HAMPTON, NEW CASTLE, NEWFIELDS, NEWINGTON, NEWMARKET, NORTH HAMPTO PORTSMOUTH, RYE, STRATHAM					
COUNTY: STRAFFORD TOWNS OF BARRINGTON, DOVER, DURHAM, FARMINGTON, LEE, MADBURY, MILTON, ROCHESTER, ROLLINSFORD SOMERSWORTH					

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BELKNAP COUNTY	331	399	465	576	645
CARROLL COUNTY	327	397	467	584	654
CHESHIRE COUNTY	371	449	530	662	732
COOS COUNTY	305	370	436	544	610
GRAFTON COUNTY	340	414	487	608	681
HILLSBOROUGH COUNTY TOWNS OF ANTRIM, BENNINGTON, DEERING, FRANCESTOWN GREENFIELD, GREENVILLE, HANCOCK, HILLSBOROUGH, LYNDEBOROUGH, MASON, NEW BOSTON, NEW IPSWICH, PETERBOROUGH, SHARON TEMPLE, WEARE, WINDSOR	418	508	597	746	826
MERRIMACK COUNTY TOWNS OF ANDOVER, BOSCAWEN, BOW, BRADFORD, CANTERBURY CHICHESTER, CONCORD, DANBURY, DUNBARTON, EPSOM, FRANKLIN, HENNIKER, HILL, HOPKINTON, LOUDON, NEWBURY, NEW LONDON NORTHFIELD, PEMBROKE, PITTSFIELD, SALISBURY, SUTTON, WARNER, WEBSTER, WILMOT	408	495	583	730	816
ROCKINGHAM COUNTY TOWNS OF CHESTER, DEERFIELD, EPPING, FREMONT HAMPTON FALL, KENSINGTON, NORTHWOOD, NOTTINGHAM, RAYMOND, SOUTH HAMPTO	418	508	597	746	826
STRAFFORD COUNTY TOWNS OF MIDDLETON, NEW DURHAM, STRAFFORD	370	452	532	666	735
SULLIVAN COUNTY	331	399	466	581	652

S T A T E: NEW JERSEY	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLENTOWN-BETHLEHEM, PA-NJ MSA	303	368	430	542	604
COUNTY(IES): WARREN					
ATLANTIC CITY, NJ MSA	363	442	518	648	727
COUNTY(IES): ATLANTIC, CAPE MAY					
BERGEN-PASSAIC, NJ PMSA	506	614	728	910	1019
COUNTY(IES): BERGEN, PASSAIC					
JERSEY CITY, NJ PMSA	350	425	500	625	700
COUNTY(IES): HUDSON					
MIDDLESEX-SOMERSET-HUNTERDON, NJ PMSA	469	570	670	839	939
COUNTY(IES): HUNTERDON, MIDDLESEX, SOMERSET					
MONMOUTH-OCEAN, NJ PMSA	422	511	602	753	844
COUNTY(IES): MONMOUTH, OCEAN					
NEWARK, NJ PMSA	394	478	563	703	788
COUNTY(IES): ESSEX, MORRIS, SUSSEX, UNION					
PHILADELPHIA, PA-NJ PMSA	347	419	492	615	687
COUNTY(IES): BURLINGTON, CAMDEN, GLOUCESTER					
TRENTON, NJ PMSA	436	529	623	779	872
COUNTY(IES): MERCER					
VINELAND-MILLVILLE-BRIDGETON, NJ PMSA	350	425	500	625	700
COUNTY(IES): CUMBERLAND					
WILMINGTON, DE-NJ-MD PMSA	367	439	522	652	776
COUNTY(IES): SALEM					

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: NEW MEXICO	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBUQUERQUE, NM MSA	336	408	480	600	673
COUNTY(IES): BERNALILLO					
LAS CRUCES, NM MSA	267	324	381	477	534
COUNTY(IES): DONA ANA					
SANTA FE, NM MSA	391	475	560	699	783
COUNTY(IES): LOS ALAMOS, SANTE FE					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CATRON	241	293	345	431	482	CHAVES	262	318	374	468	524
CIBOLA	241	293	345	431	482	COLFAX	249	302	356	445	498
CURRY	249	302	356	445	498	DE BACA	249	302	356	445	498
EDDY	288	350	413	516	577	GRANT	241	293	345	431	482
GUADALUPE	249	302	356	445	498	HARDING	249	302	356	445	498
HIDALGO	241	293	345	431	482	LEA	288	350	413	516	577
LINCOLN	262	318	374	468	524	LUNA	241	293	345	431	482
MCKINLEY	334	406	478	598	669	MORA	249	302	356	445	498
OTERO	262	318	374	468	524	QUAY	249	302	356	445	498
RIO ARRIBA	224	272	320	400	448	ROOSEVELT	249	302	356	445	498
SANDOVAL	283	344	405	506	567	SAN JUAN	334	406	478	598	669
SAN MIGUEL	249	302	356	445	498	SIERRA	262	318	374	468	524
SOCORRO	262	318	374	468	524	TAOS	268	325	382	478	536
TORRANCE	249	302	356	445	498	UNION	249	302	356	445	498
VALENCIA	241	293	345	431	482						

S T A T E: NEW YORK	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBANY-SCHENECTADY-TROY, NY MSA	309	371	438	551	613
COUNTY(IES): ALBANY, GREENE, MONTGOMERY, RENSSELAER, SARATOGA, SCHENECTADY					
BINGHAMTON, NY MSA	279	335	396	489	549
COUNTY(IES): BROOME, TIOGA					
BUFFALO, NY PMSA	282	342	403	504	563
COUNTY(IES): ERIE					
ELMIRA, NY MSA	281	342	403	504	565
COUNTY(IES): CHEMUNG					
GLENS FALLS, NY MSA	291	354	416	520	583
COUNTY(IES): WARREN, WASHINGTON					
NASSAU-SUFFOLK, NY PMSA	499	605	712	891	996
COUNTY(IES): NASSAU, SUFFOLK					
NEW YORK, NY PMSA	375	455	535	671	751
COUNTY(IES): BRONX, KINGS, NEW YORK, PUTNAM, QUEENS, RICHMOND, ROCKLAND, WESTCHESTER					
NIAGARA FALLS, NY PMSA	271	328	386	483	541
COUNTY(IES): NIAGARA					
ORANGE COUNTY, NY PMSA	372	452	531	664	744
COUNTY(IES): ORANGE					
POUGHKEEPSIE, NY MSA	422	513	604	755	846
COUNTY(IES): DUTCHESS					
ROCHESTER, NY MSA	331	405	477	596	663
COUNTY(IES): LIVINGSTON, MONROE, ONTARIO, ORLEANS, WAYNE					
SYRACUSE, NY MSA	292	349	409	511	573
COUNTY(IES): MADISON, ONONDAGA, OSWEGO					
UTICA-ROME, NY MSA	254	309	363	455	509
COUNTY(IES): HERKIMER, ONEIDA					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLEGANY	249	298	349	437	490	CATTARAUGUS	245	297	349	437	490
CAYUGA	291	354	416	520	583	CHAUTAUQUA	261	318	374	468	523
CHENANGO	288	349	411	514	575	CLINTON	278	331	389	483	531
COLUMBIA	274	332	392	490	549	CORTLAND	298	362	427	534	598
DELAWARE	267	326	383	478	536	ESSEX	265	321	377	472	529
FRANKLIN	264	321	377	472	529	FULTON	237	289	339	425	475
GENESEE	271	328	387	483	541	HAMILTON	264	321	377	472	529
JEFFERSON	284	345	406	507	569	LEWIS	284	345	406	507	569
OTSEGO	267	326	383	478	536	ST LAWRENCE	271	328	387	483	541
SCHOHARIE	267	326	383	478	536	SCHUYLER	274	332	392	490	549
SENECA	291	354	416	520	583	STEUBEN	274	332	392	490	549
SULLIVAN	288	352	414	506	578	TOMPKINS	298	362	427	534	598
ULSTER	341	414	488	609	683	WYOMING	272	328	387	483	541
YATES	272	330	389	487	543						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: NORTH CAROLINA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ASHEVILLE, NC MSA COUNTY(IES): BUNCOMBE	255	310	365	455	510
BURLINGTON, NC MSA COUNTY(IES): ALAMANCE	253	307	361	451	506
CHARLOTTE-GASTONIA-ROCK HILL, NC-SC MSA COUNTY(IES): CABARRUS, GASTON, LINCOLN, MECKLENBURG, ROWAN, UNION	284	342	401	501	560
FAYETTEVILLE, NC MSA COUNTY(IES): CUMBERLAND	243	295	348	436	488
GREENSBORO--WINSTON-SALEM--HIGH POINT, NC MSA COUNTY(IES): DAVIDSON, DAVIE, FORSYTH, GUILFORD, RANDOLPH, STOKES, YADKIN	266	324	380	476	534
HICKORY, NC MSA COUNTY(IES): ALEXANDER, BURKE, CATAWBA	233	282	333	416	467
JACKSONVILLE, NC MSA COUNTY(IES): ONSLOW	241	294	346	433	485
RALEIGH-DURHAM, NC MSA COUNTY(IES): DURHAM, FRANKLIN, ORANGE, WAKE	305	371	437	546	611
WILMINGTON, NC MSA COUNTY(IES): NEW HANOVER	255	310	365	455	510

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLEGHANY	230	277	325	406	446	ANSON	232	278	325	407	455
ASHE	230	277	325	406	446	AVERY	230	277	325	406	446
BEAUFORT	255	310	365	455	510	BERTIE	255	310	365	455	510
BLADEN	246	300	352	441	493	BRUNSWICK	231	281	331	414	464
CALDWELL	230	278	328	411	459	CAMDEN	246	295	344	428	476
CARTERET	239	291	342	429	481	CASWELL	231	280	330	413	463
CHATHAM	305	371	437	546	611	CHEROKEE	199	242	286	358	401
CHOWAN	246	295	344	428	476	CLAY	199	242	286	358	401
CLEVELAND	230	277	325	406	446	COLUMBUS	241	293	345	431	483
CRAVEN	239	291	342	429	481	CURRITUCK	280	336	386	478	528
DARE	246	295	344	428	476	DUPLIN	216	262	308	384	431
EDGECOMBE	239	291	342	429	481	GATES	246	295	344	428	476
GRAHAM	199	242	286	358	401	GRANVILLE	221	268	315	395	442
GREENE	223	270	318	399	446	HALIFAX	239	291	342	429	481
HARNETT	223	270	318	399	446	HAYWOOD	231	281	332	415	466
HENDERSON	251	306	360	450	504	HERTFORD	255	310	365	455	510
HOKE	216	262	308	384	431	HYDE	246	295	344	428	476
IREDELL	231	280	330	409	457	JACKSON	239	291	342	429	479
JOHNSTON	236	287	338	422	474	JONES	239	291	342	429	481
LEE	236	287	338	422	474	LENOIR	239	291	342	429	481
MCDOWELL	230	277	325	406	446	MACON	251	305	360	450	505
MADISON	251	306	360	450	504	MARTIN	255	310	365	455	510
MITCHELL	230	277	325	406	446	MONTGOMERY	232	278	325	407	455
MOORE	232	278	325	407	455	NASH	245	299	351	440	492
NORTHAMPTON	239	291	342	429	481	PAMLICO	239	291	342	429	481
PASQUOTANK	246	295	344	428	476	PENDER	211	257	302	377	423
PERQUIMANS	246	295	344	428	476	PERSON	221	268	315	395	442
PITT	255	310	365	455	510	POLK	230	277	325	406	446
RICHMOND	232	278	325	407	455	ROBESON	206	250	294	368	412
ROCKINGHAM	231	280	330	413	463	RUTHERFORD	230	277	325	406	446
SAMPSON	223	270	318	399	446	SCOTLAND	206	250	295	368	412
STANLY	228	277	327	409	457	SURRY	218	265	311	389	436
SWAIN	199	242	286	358	401	TRANSYLVANIA	251	306	360	450	504
TYRRELL	246	295	344	428	476	VANCE	221	268	315	395	442
WARREN	221	268	315	395	442	WASHINGTON	246	295	344	428	476
WATAUGA	230	277	325	406	446	WAYNE	223	270	318	399	446
WILKES	230	277	325	406	446	WILSON	245	299	351	440	492
YANCEY	230	277	325	406	446						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: NORTH DAKOTA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BISMARCK, ND MSA	289	351	414	517	580
COUNTY(IES): BURLEIGH, MORTON					
FARGO-MOORHEAD, ND-MN MSA	289	351	413	518	580
COUNTY(IES): CASS					
GRAND FORKS, ND MSA	275	334	394	491	551
COUNTY(IES): GRAND FORKS					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	244	298	350	439	490	BARNES	251	305	358	448	503
BENSON	251	305	358	448	503	BILLINGS	244	298	350	439	490
BOTTINEAU	244	298	350	439	490	BOWMAN	244	298	350	439	490
BURKE	244	298	350	439	490	CAVALIER	251	305	358	448	503
DICKEY	251	305	358	448	503	DIVIDE	244	298	350	439	490
DUNN	244	298	350	439	490	EDDY	251	305	358	448	503
EMMONS	221	268	315	396	442	FOSTER	251	305	358	448	503
GOLDEN VALLY	244	298	350	439	490	GRANT	221	268	315	396	442
GRIGGS	251	305	358	448	503	HETTINGER	244	298	350	439	490
KIDDER	221	268	315	396	442	LA MOORE	251	305	358	448	503
LOGAN	251	305	358	448	503	MCHENRY	244	298	350	439	490
MCINTOSH	251	305	358	448	503	MCKENZIE	244	298	350	439	490
MCLEAN	221	268	315	396	442	MERCER	221	268	315	396	442
MOUNTRAIL	244	298	350	439	490	NELSON	251	305	358	448	503
OLIVER	221	268	315	396	442	PEMBINA	251	305	358	448	503
PIERCE	244	298	350	439	490	RAMSEY	251	305	358	448	503
RANSOM	228	276	326	407	455	RENVILLE	244	298	350	439	490
RICHLAND	228	276	326	407	455	ROLETTE	251	305	358	448	503
SARGENT	228	276	326	407	455	SHERIDAN	221	268	315	396	442
SIOUX	221	268	315	396	442	SLOPE	244	298	350	439	490
STARK	244	298	350	439	490	STEELE	228	276	326	407	455
STUTSMAN	251	305	358	448	503	TOWNER	251	305	358	448	503
TRAILL	228	276	326	407	455	WALSH	251	305	358	448	503
WARD	244	298	350	439	490	WELLS	251	305	358	448	503
WILLIAMS	244	298	350	439	490						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: OHIO	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AKRON, OH PMSA	287	349	411	514	575
COUNTY(IES): PORTAGE, SUMMIT					
CANTON, OH MSA	251	305	358	448	503
COUNTY(IES): CARROLL, STARK					
CINCINNATI, OH-KY-IN PMSA	260	318	375	469	522
COUNTY(IES): CLERMONT, HAMILTON, WARREN					
CLEVELAND, OH PMSA	300	365	428	535	600
COUNTY(IES): CUYAHOGA, GEAUGA, LAKE, MEDINA					
COLUMBUS, OH MSA	286	344	408	509	573
COUNTY(IES): DELAWARE, FAIRFIELD, FRANKLIN, LICKING, MADISON, PICKAWAY, UNION					
DAYTON-SPRINGFIELD, OH MSA	265	323	376	472	524
COUNTY(IES): CLARK, GREENE, MIAMI, MONTGOMERY					
HAMILTON-MIDDLETOWN, OH PMSA	292	356	418	523	585
COUNTY(IES): BUTLER					
HUNTINGTON-ASHLAND, WV-KY-OH MSA	282	342	403	504	566
COUNTY(IES): LAWRENCE					
LIMA, OH MSA	266	323	380	476	534
COUNTY(IES): ALLEN, AUGLAIZE					
LORAIN-ELYRIA, OH PMSA	282	344	405	506	567
COUNTY(IES): LORAIN					
MANSFIELD, OH MSA	240	294	344	431	482
COUNTY(IES): RICHLAND					
PARKERSBURG-MARIETTA, WV-OH MSA	262	317	374	469	524
COUNTY(IES): WASHINGTON					
STEUBENVILLE-WEIRTON, OH-WV MSA	269	327	383	480	539
COUNTY(IES): JEFFERSON					
TOLEDO, OH MSA	305	371	437	546	612
COUNTY(IES): FULTON, LUCAS, WOOD					
WHEELING, WV-OH MSA	265	322	380	475	532
COUNTY(IES): BELMONT					
YOUNGSTOWN-WARREN, OH MSA	266	323	380	476	534
COUNTY(IES): MAHONING, TRUMBULL					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	238	287	336	418	470	ASHLAND	263	320	376	471	526
ASHTABULA	280	341	402	503	562	ATHENS	249	307	361	450	504
BROWN	238	287	336	418	470	CHAMPAIGN	254	308	364	454	509
CLINTON	242	296	347	435	486	COLUMBIANA	249	302	356	445	499
COSHOCTON	217	265	312	386	435	CRAWFORD	241	294	346	433	484
DARKE	242	296	347	435	486	DEFIANCE	271	329	386	484	543
ERIE	274	333	392	489	549	FAYETTE	242	296	347	435	486
GALLIA	262	317	374	469	524	GUERNSEY	257	311	367	458	514
HANCOCK	258	312	368	459	516	HARDIN	258	312	368	459	516
HARRISON	241	294	346	433	484	HENRY	271	329	386	484	543
HIGHLAND	238	287	336	418	470	HOCKING	231	280	331	413	463
HOLMES	255	310	365	456	511	HURON	241	294	346	433	484
JACKSON	234	285	335	418	470	KNOX	234	285	335	418	470
LOGAN	258	312	368	459	516	MARION	234	285	335	418	470
MEIGS	231	280	331	413	463	MERCER	242	296	347	435	486
MONROE	260	315	371	465	520	MORGAN	260	315	371	465	520
MORROW	234	285	335	418	470	MUSKINGUM	242	294	346	433	484
NOBLE	260	315	371	465	520	OTTAWA	274	333	392	489	549
PAULDING	271	329	386	484	543	PERRY	231	280	331	413	463
PIKE	234	285	335	418	470	PREBLE	264	321	377	473	528
PUTNAM	262	317	374	469	524	ROSS	242	296	347	435	486
SANDUSKY	274	333	392	489	549	SCIOTO	234	285	335	418	470
SENECA	241	294	346	433	484	SHELBY	242	296	347	435	486
TUSCARAWAS	255	310	365	456	511	VAN WERT	262	317	374	469	524
VINTON	262	317	374	469	524	WAYNE	263	320	376	471	526
WILLIAMS	271	329	386	484	543	WYANDOT	241	294	346	433	484

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: OKLAHOMA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ENID, OK MSA COUNTY(IES): GARFIELD	292	355	418	523	586
FORT SMITH, AR-OK MSA COUNTY(IES): SEQUOYAH	243	296	348	436	488
LAWTON, OK MSA COUNTY(IES): COMANCHE	251	305	360	450	504
OKLAHOMA CITY, OK MSA COUNTY(IES): CANADIAN, CLEVELAND, LOGAN, MCCLAIN, OKLAHOMA, POTTAWATOMIE	317	381	448	549	618
TULSA, OK MSA COUNTY(IES): CREEK, OSAGE, ROGERS, TULSA, WAGONER	318	386	455	568	637

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAIR	196	240	281	350	389	ALFALFA	222	271	319	397	447
ATOKA	172	210	247	308	345	BEAVER	222	271	319	397	447
BECKHAM	217	263	310	388	435	BLAINE	222	271	319	397	447
BRYAN	207	251	295	370	414	CADDO	206	250	294	368	412
CARTER	207	251	295	370	414	CHEROKEE	196	240	281	350	389
CHOCTAW	172	210	247	308	345	CIMARRON	222	271	319	397	447
COAL	172	210	247	308	345	COTTON	206	250	294	368	412
CRAIG	249	303	356	446	500	CUSTER	217	263	310	388	435
DELAWARE	194	237	278	347	389	DEWEY	222	271	319	397	447
ELLIS	222	271	319	397	447	GARVIN	207	251	295	370	414
GRADY	206	250	294	368	412	GRANT	257	312	368	460	515
GREER	217	263	310	388	435	HARMON	217	263	310	388	435
HARPER	222	271	319	397	447	HASKELL	172	210	247	308	345
HUGHES	200	243	286	357	400	JACKSON	217	263	310	388	435
JEFFERSON	206	250	294	368	412	JOHNSTON	207	251	295	370	414
KAY	257	312	368	460	515	KINGFISHER	257	312	368	460	515
KIOWA	217	263	310	388	435	LATIMER	172	210	247	308	345
LE FLORE	172	210	247	308	345	LINCOLN	246	298	351	439	492
LOVE	207	251	295	370	414	MCCURTAIN	172	210	247	308	345
MCINTOSH	200	243	286	357	400	MAJOR	222	271	319	397	447
MARSHALL	207	251	295	370	414	MAYES	258	313	370	462	517
MURRAY	207	251	295	370	414	MUSKOGEE	200	243	286	357	400
NOBLE	257	312	368	460	515	NOWATA	249	303	356	446	500
OKFUSKEE	200	243	286	357	400	OKMULGEE	200	243	286	357	400
OTTAWA	249	303	356	446	500	PAWNEE	246	298	351	439	492
PAYNE	246	298	351	439	492	PITTSBURG	172	210	247	308	345
PONTOTOC	207	251	295	370	414	PUSHMATAHA	172	210	247	308	345
ROGER MILLS	217	263	310	388	435	SEMINOLE	205	249	294	363	404
STEPHENS	206	250	294	368	412	TEXAS	222	271	319	397	447
TILLMAN	206	250	294	368	412	WASHINGTON	249	303	356	446	500
WASHITA	217	263	310	388	435	WOODS	222	271	319	397	447
WOODWARD	222	271	319	397	447						

S T A T E: OREGON	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
EUGENE-SPRINGFIELD, OR MSA COUNTY(IES): LANE	353	430	506	633	708
MEDFORD, OR MSA COUNTY(IES): JACKSON	351	427	502	628	703
PORTLAND, OR PMSA COUNTY(IES): CLACKAMAS, MULTNOMAH, WASHINGTON, YAMHILL	301	367	441	570	631
SALEM, OR MSA COUNTY(IES): MARION, POLK	330	402	473	591	662

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BAKER	322	391	460	575	644	BENTON	328	399	470	587	657
CLATSOP	313	381	448	559	627	COLUMBIA	313	381	448	559	627
COOS	336	408	481	600	673	CROOK	341	414	487	610	682
CURRY	336	408	481	600	673	DESCHUTES	341	414	487	610	682
DOUGLAS	336	408	481	600	673	GILLIAM	322	391	460	575	644
GRANT	322	391	460	575	644	HARNEY	307	373	440	550	616
HOOD RIVER	341	414	487	610	682	JEFFERSON	341	414	487	610	682
JOSEPHINE	336	408	481	600	673	KLAMATH	307	373	440	550	616
LAKE	307	373	440	550	616	LINCOLN	313	381	448	559	627
LINN	328	399	470	587	657	MALHEUR	307	373	440	550	616
MORROW	322	391	460	575	644	SHERMAN	341	414	487	610	682
TILLAMOOK	313	381	448	559	627	UMATILLA	322	391	460	575	644
UNION	322	391	460	575	644	WALLOWA	322	391	460	575	644
WASCO	341	414	487	610	682	WHEELER	322	391	460	575	644

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

STATE: PENNSYLVANIA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLENTOWN-BETHLEHEM, PA-NJ MSA	303	368	430	542	604
COUNTY(IES): CARBON, LEHIGH, NORTHAMPTON					
ALTOONA, PA MSA	270	327	385	481	539
COUNTY(IES): BLAIR					
BEAVER COUNTY, PA PMSA	288	347	408	511	572
COUNTY(IES): BEAVER					
ERIE, PA MSA	310	377	443	554	621
COUNTY(IES): ERIE					
HARRISBURG-LEBANON-CARLISLE, PA MSA	321	385	455	568	636
COUNTY(IES): CUMBERLAND, DAUPHIN, LEBANON, PERRY					
JOHNSTOWN, PA MSA	261	319	374	468	525
COUNTY(IES): CAMBRIA, SOMERSET					
LANCASTER, PA MSA	324	394	463	580	649
COUNTY(IES): LANCASTER					
PHILADELPHIA, PA-NJ PMSA	347	419	492	615	687
COUNTY(IES): BUCKS, CHESTER, DELAWARE, MONTGOMERY, PHILADELPHIA					
PITTSBURGH, PA PMSA	302	367	431	539	604
COUNTY(IES): ALLEGHANY, FAYETTE, WASHINGTON, WESTMORELAND					
READING, PA MSA	303	369	433	542	607
COUNTY(IES): BERKS					
SCRANTON--WILKES-BARRE, PA MSA	246	303	353	435	493
COUNTY(IES): COLUMBIA, LACKAWANNA, LUZERNE, MONROE, WYOMING					
SHARON, PA MSA	287	348	411	514	576
COUNTY(IES): MERCER					
STATE COLLEGE, PA MSA	346	421	496	619	694
COUNTY(IES): CENTRE					
WILLIAMSPORT, PA MSA	261	319	374	468	525
COUNTY(IES): LYCOMING					
YORK, PA MSA	292	355	417	522	585
COUNTY(IES): ADAMS, YORK					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ARMSTRONG	301	365	430	538	603	BEDFORD	243	296	348	435	487
BRADFORD	250	304	358	447	500	BUTLER	299	364	428	536	599
CAMERON	254	308	362	453	508	CLARION	247	301	354	442	496
CLEARFIELD	258	314	370	462	517	CLINTON	254	306	360	449	502
CRAWFORD	256	310	366	458	513	ELK	254	308	362	453	508
FOREST	247	301	354	442	496	FRANKLIN	277	338	396	497	555
FULTON	243	296	348	435	487	GREENE	258	314	370	462	517
HUNTINGDON	243	296	348	435	487	INDIANA	301	365	430	538	603
JEFFERSON	258	314	370	462	517	JUNIATA	251	305	359	449	502
LAWRENCE	256	310	366	458	513	MCKEAN	254	308	362	453	508
MIFFLIN	251	305	365	449	502	MONTOUR	258	314	370	462	517
NORTHUMBRLND	270	314	370	462	517	PIKE	290	339	418	519	565
POTTER	254	308	362	453	508	SCHUYLKILL	280	329	399	483	526
SNYDER	251	305	359	449	502	SULLIVAN	250	304	358	447	500
SUSQUEHANNA	250	304	358	447	500	TIOGA	250	304	358	447	500
UNION	290	340	418	519	565	VENANGO	247	301	354	442	496
WARREN	256	310	366	458	513	WAYNE	278	339	398	499	559

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: RHODE ISLAND	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FALL RIVER, MA-RI PMSA	350	417	501	580	640
COUNTY: NEWPORT TOWNS OF LITTLE COMPT, TIVERTON					
NEW LONDON-NORWICH, CT-RI MSA	388	472	554	693	777
COUNTY: WASHINGTON TOWNS OF HOPKINTON, WESTERLY					
PAWTUCKET-WOONSOCKET-ATTLEBORO, RI-MA PMSA	340	412	485	595	679
COUNTY: PROVIDENCE TOWNS OF BURRILLVILLE, CENTRAL FALL, CUMBERLAND, LINCOLN, NORTH SMITHF, PAWTUCKET, SMITHFIELD WOONSOCKET					
PROVIDENCE, RI PMSA	360	429	503	630	702
COUNTY: BRISTOL TOWNS OF BARRINGTON, BRISTOL, WARREN					
COUNTY: KENT TOWNS OF COVENTRY, EAST GREENWI, WARWICK, WEST WARWICK					
COUNTY: NEWPORT TOWNS OF JAMESTOWN					
COUNTY: PROVIDENCE TOWNS OF CRANSTON, EAST PROVIDE, FOSTER, GLOCESTER, JOHNSTON, NORTH PROVID, PROVIDENCE, SCITUATE					
COUNTY: WASHINGTON TOWNS OF EXETER, NARRAGANSETT, NORTH KINGST, RICHMOND, SOUTH KINGST					

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KENT COUNTY TOWNS OF WEST GREENWI	324	394	464	579	649
NEWPORT COUNTY TOWNS OF MIDDLETOWN, NEWPORT, PORTSMOUTH	423	514	605	756	847
WASHINGTON COUNTY TOWNS OF CHARLESTOWN, NEW SHOREHAM	324	394	464	579	649

S T A T E: SOUTH CAROLINA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANDERSON, SC MSA	231	280	329	413	462
COUNTY(IES): ANDERSON					
AUGUSTA, GA-SC MSA	267	322	376	470	526
COUNTY(IES): AIKEN					
CHARLESTON, SC MSA	285	347	409	510	572
COUNTY(IES): BERKELEY, CHARLESTON, DORCHESTER					
CHARLOTTE-GASTONIA-ROCK HILL, NC-SC MSA	284	342	401	501	560
COUNTY(IES): YORK					
COLUMBIA, SC MSA	288	351	414	517	578
COUNTY(IES): LEXINGTON, RICHLAND					
FLORENCE, SC MSA	234	284	335	419	469
COUNTY(IES): FLORENCE					
GREENVILLE-SPARTANBURG, SC MSA	252	306	361	451	506
COUNTY(IES): GREENVILLE, PICKENS, SPARTANBURG					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ABBEVILLE	203	247	292	361	400	ALLENDALE	211	258	303	380	425
BAMBERG	211	258	303	380	425	BARNWELL	211	258	303	380	425
BEAUFORT	262	319	376	469	526	CALHOUN	217	265	314	384	429
CHEROKEE	203	246	290	363	408	CHESTER	203	246	290	363	408
CHESTERFIELD	202	245	288	361	405	CLARENDON	229	277	326	409	458
COLLETON	262	319	376	469	526	DARLINGTON	202	245	288	361	405
DILLON	202	245	288	361	405	EDGEFIELD	199	242	285	356	399
FAIRFIELD	199	242	285	356	399	GEORGETOWN	245	298	350	438	491
GREENWOOD	203	247	292	361	400	HAMPTON	262	319	376	469	526
HORRY	245	298	350	438	491	JASPER	262	319	376	469	526
KERSHAW	229	277	326	409	458	LANCASTER	218	267	315	389	434
LAURENS	203	247	292	361	400	LEE	229	277	326	409	458
MCCORMICK	199	242	285	356	399	MARION	202	245	288	361	405
MARLBORO	202	245	288	361	405	NEWBERRY	199	242	285	356	399
OCONEE	250	305	359	449	503	ORANGEBURG	211	258	303	380	425
SALUDA	199	242	285	356	399	SUMTER	229	277	326	409	458
UNION	203	246	290	363	408	WILLIAMSBURG	245	298	350	438	491

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: SOUTH DAKOTA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RAPID CITY, SD MSA	264	318	370	459	514
COUNTY(IES): PENNINGTON					
SIOUX FALLS, SD MSA	279	338	398	498	558
COUNTY(IES): MINNEHAHA					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AURORA	238	286	335	419	469	BEADLE	238	286	335	416	463
BENNETT	215	261	308	385	431	BON HOMME	235	284	335	419	469
BROOKINGS	233	280	327	407	460	BROWN	253	307	359	449	502
BRULE	235	284	335	419	469	BUFFALO	215	261	308	385	431
BUTTE	256	312	366	459	514	CAMPBELL	215	261	308	385	431
CHARLES MIX	235	284	335	419	469	CLARK	210	252	301	373	414
CLAY	235	284	335	419	469	CODINGTON	233	280	327	407	460
CORSON	215	261	308	385	431	CUSTER	256	312	366	459	514
DAVISON	238	286	335	419	469	DAY	227	278	326	409	458
DEUEL	210	252	301	373	414	DEWEY	215	261	308	385	431
DOUGLAS	235	284	335	419	469	EDMUNDS	227	278	326	409	458
FALL RIVER	256	312	366	459	514	FAULK	227	278	326	409	458
GRANT	233	280	327	407	460	GREGORY	215	261	308	385	431
HAAKON	215	261	308	385	431	HAMLIN	210	252	301	373	414
HAND	238	286	335	416	463	HANSON	238	286	335	419	469
HARDING	256	312	366	459	514	HUGHES	280	344	401	502	560
HUTCHINSON	235	284	335	419	469	HYDE	215	261	308	385	431
JACKSON	215	261	308	385	431	JERAULD	238	286	335	419	469
JONES	215	261	308	385	431	KINGSBURY	204	248	291	365	409
LAKE	204	248	291	365	409	LAWRENCE	262	312	366	459	514
LINCOLN	238	286	335	419	469	LYMAN	215	261	308	385	431
MCCOOK	204	248	291	365	409	MCPHERSON	227	278	326	409	458
MARSHALL	227	278	326	409	458	MEADE	264	318	370	459	514
MELLETTE	215	261	308	385	431	MINER	204	248	291	365	409
MOODY	204	248	291	365	409	PERKINS	215	261	308	385	431
POTTER	215	261	308	385	431	ROBERTS	227	278	326	409	458
SANBORN	238	286	335	419	469	SHANNON	215	261	308	385	431
SPINK	227	278	326	409	458	STANLEY	280	344	401	502	560
SULLY	215	261	308	385	431	TODD	215	261	308	385	431
TRIPP	215	261	308	385	431	TURNER	238	286	335	419	469
UNION	235	284	335	419	469	WALWORTH	215	261	308	385	431
YANKTON	235	284	335	419	469	ZIEBACH	215	261	308	385	431

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: TENNESSEE	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHATTANOOGA, TN-GA MSA					
COUNTY(IES): HAMILTON, MARION, SEQUATCHIE	285	346	407	509	571
CLARKSVILLE-HOPKINSVILLE, TN-KY MSA					
COUNTY(IES): MONTGOMERY	263	331	415	503	559
JACKSON, TN MSA					
COUNTY(IES): MADISON	258	311	369	459	517
JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA MSA					
COUNTY(IES): CARTER, HAWKINS, SULLIVAN, UNICOI, WASHINGTON	239	290	341	427	478
KNOXVILLE, TN MSA					
COUNTY(IES): ANDERSON, BLOUNT, GRAINGER, JEFFERSON, KNOX, SEVIER, UNION	262	320	375	470	526
MEMPHIS, TN-AR-MS MSA					
COUNTY(IES): SHELBY, TIPTON	258	317	374	464	522
NASHVILLE, TN MSA					
COUNTY(IES): CHEATHAM, DAVIDSON, DICKSON, ROBERTSON, RUTHERFORD, SUMNER, WILLIAMSON, WILSON	312	380	447	558	626

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BEDFORD	224	282	320	398	447	BENTON	211	256	302	378	423
BLEDSOE	234	295	335	419	469	BRADLEY	234	285	335	419	469
CAMPBELL	190	232	275	342	380	CANNON	211	258	305	380	427
CARROLL	211	256	302	378	423	CHESTER	230	281	330	413	462
CLAIBORNE	190	232	275	342	380	CLAY	183	225	266	333	370
COCKE	213	258	303	380	426	COFFEE	224	282	320	398	447
CROCKETT	215	260	306	384	430	CUMBERLAND	211	258	305	380	427
DECATUR	230	281	330	413	462	DE KALB	211	258	305	380	427
DYER	215	260	306	384	430	FAYETTE	220	268	315	394	441
FENTRESS	211	258	305	380	427	FRANKLIN	253	305	359	449	501
GIBSON	215	260	306	384	430	GILES	224	282	320	398	447
GREENE	209	254	298	373	419	GRUNDY	234	285	335	419	469
HAMBLEN	221	268	317	395	443	HANCOCK	209	254	298	373	419
HARDEMAN	230	281	330	413	462	HARDIN	230	281	330	413	462
HAYWOOD	220	276	315	394	441	HENDERSON	230	281	330	413	462
HENRY	211	256	302	378	423	HICKMAN	224	282	320	398	447
HOUSTON	194	236	278	347	388	HUMPHREYS	194	236	278	347	388
JACKSON	183	225	266	333	370	JOHNSON	203	248	291	364	407
LAKE	215	260	306	384	430	LAUDERDALE	220	276	315	394	441
LAWRENCE	224	282	320	398	447	LEWIS	222	270	319	398	447
LINCOLN	253	305	359	449	501	LOUDON	224	276	322	403	451
MCMINN	234	285	335	419	469	MCNAIRY	230	281	330	413	462
MACON	211	258	305	380	427	MARSHALL	224	282	320	398	447
MAURY	224	282	320	398	447	MEIGS	234	285	335	419	469
MONROE	224	276	322	403	451	MOORE	224	282	320	398	447
MORGAN	190	232	275	342	380	OBION	218	268	306	386	430
OVERTON	211	258	305	380	427	PERRY	222	270	319	398	447
PICKETT	211	258	305	380	427	POLK	234	285	335	419	469
PUTNAM	217	263	310	388	434	RHEA	234	285	335	419	469
ROANE	224	276	322	403	451	SCOTT	190	232	275	342	380
SMITH	211	258	305	380	427	STEWART	194	236	278	347	388
TROUSDALE	211	258	305	380	427	VAN BUREN	217	263	310	388	434
WARREN	217	263	310	388	434	WAYNE	222	270	319	398	447
WEAKLEY	211	256	302	378	423	WHITE	217	263	310	388	434

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

STATE: TEXAS

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ABILENE, TX MSA COUNTY(IES): TAYLOR	284	346	407	509	571
AMARILLO, TX MSA COUNTY(IES): POTTER, RANDALL	262	318	375	468	524
AUSTIN, TX MSA COUNTY(IES): HAYS, TRAVIS, WILLIAMSON	336	403	474	593	664
BEAUMONT-PORT ARTHUR, TX MSA COUNTY(IES): HARDIN JEFFERSON, ORANGE	301	365	430	538	602
BRAZORIA, TX PMSA COUNTY(IES): BRAZORIA	314	381	449	561	628
BROWNSVILLE-HARLINGEN, TX MSA COUNTY(IES): CAMERON	267	324	381	476	534
BRYAN-COLLEGE STATION, TX MSA COUNTY(IES): BRAZOS	353	430	505	632	708
CORPUS CHRISTI, TX MSA COUNTY(IES): NUECES, SAN PATRICIO	308	374	440	551	617
DALLAS, TX PMSA COUNTY(IES): COLLIN, DALLAS, DENTON, ELLIS, KAUFMAN, ROCKWALL	296	364	427	535	598
EL PASO, TX MSA COUNTY(IES): EL PASO	264	319	376	470	527
FORT WORTH-ARLINGTON, TX PMSA COUNTY(IES): JOHNSON, PARKER, TARRANT	296	364	427	535	598
GALVESTON-TEXAS CITY, TX PMSA COUNTY(IES): GALVESTON	293	356	419	524	587
HOUSTON, TX PMSA COUNTY(IES): FORT BEND, HARRIS, LIBERTY, MONTGOMERY, WALLER	280	340	400	500	560
KILLEEN-TEMPLE, TX MSA COUNTY(IES): BELL, CORYELL	260	315	371	464	520
LAREDO, TX MSA COUNTY(IES): WEBB	245	299	351	439	493
LONGVIEW-MARSHALL, TX MSA COUNTY(IES): GREGG, HARRISON	297	360	424	529	593
LUBBOCK, TX MSA COUNTY(IES): LUBBOCK	221	277	362	460	507
MC ALLEN-EDINBURG-MISSION, TX MSA COUNTY(IES): HIDALGO	266	323	379	474	532
MIDLAND, TX MSA COUNTY(IES): MIDLAND	341	414	487	610	683
ODESSA, TX MSA COUNTY(IES): ECTOR	339	412	484	605	678
SAN ANGELO, TX MSA COUNTY(IES): TOM GREEN	286	348	410	513	575
SAN ANTONIO, TX MSA COUNTY(IES): BEXAR, COMAL, GUADALUPE	291	349	413	519	577
SHERMAN-DENISON, TX MSA COUNTY(IES): GRAYSON	261	316	373	466	522
TEXARKANA, TX-TEXARKANA, AR MSA COUNTY(IES): BOWIE	240	292	344	430	481
TYLER, TX MSA COUNTY(IES): SMITH	300	364	429	536	600
VICTORIA, TX MSA COUNTY(IES): VICTORIA	366	444	523	655	733
WACO, TX MSA COUNTY(IES): MCLENNAN	248	297	349	433	482
WICHITA FALLS, TX MSA COUNTY(IES): WICHITA	270	328	387	482	541

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANDERSON	228	276	325	406	456	ANDREWS	195	236	277	347	390
ANGELINA	265	320	378	472	529	ARANSAS	251	306	360	449	504
ARCHER	218	266	312	391	437	ARMSTRONG	237	287	339	424	474
ATASCOSA	234	284	336	420	469	AUSTIN	269	326	384	480	538
BAILEY	220	269	317	393	438	BANDERA	234	284	336	420	469
BASTROP	232	281	331	415	465	BAYLOR	218	266	312	391	437
BEE	251	306	360	449	504	BLANCO	214	262	307	384	431
BORDEN	214	262	307	384	430	BOSQUE	200	243	285	358	400
BREWSTER	195	236	277	347	390	BRISCOE	237	287	339	424	474
BROOKS	251	306	360	449	504	BROWN	220	269	317	393	438
BURLESON	234	283	334	417	467	BURNET	214	262	307	384	431
CALDWELL	232	281	331	415	465	CALHOUN	245	299	351	439	493
CALLAHAN	226	274	321	402	452	CAMP	209	253	300	374	420
CARSON	237	287	339	424	474	CASS	240	292	343	430	480
CASTRO	237	287	339	424	474	CHAMBERS	278	338	397	497	556
CHEROKEE	228	276	325	406	456	CHILDRESS	218	266	312	391	437
CLAY	218	266	312	391	437	COCHRAN	220	269	317	393	438

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

STATE: TEXAS

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COKE	204	248	292	365	408
COLLINGSWORT	237	287	339	424	474
COMANCHE	226	274	321	402	452
COOKE	250	304	358	447	502
CRANE	195	236	277	347	390
CROSBY	220	269	317	393	438
DALLAM	237	287	339	424	474
DEAF SMITH	237	287	339	424	474
DE WITT	245	299	351	439	493
DIMMIT	211	258	303	378	424
DUVAL	251	306	360	449	504
EDWARDS	217	266	311	383	426
FALLS	200	243	285	358	400
FAYETTE	232	281	331	415	465
FLOYD	220	269	317	393	438
FRANKLIN	240	292	343	430	480
FRIO	234	284	336	420	469
GARZA	220	269	317	393	438
GLASSCOCK	214	262	307	384	430
GONZALES	245	299	351	439	493
GRIMES	234	283	334	417	467
HALL	237	287	339	424	474
HANSFORD	237	287	339	424	474
HARTLEY	237	287	339	424	474
HEMPHILL	237	287	339	424	474
HILL	248	298	349	437	489
HOOD	269	326	384	480	538
HOUSTON	236	286	338	423	473
HUDSPETH	195	236	277	347	390
HUTCHINSON	237	287	339	424	474
JACK	218	266	312	391	437
JASPER	251	306	360	449	504
JIM HOGG	239	289	342	428	478
JONES	226	274	321	402	452
KENDALL	234	284	336	420	469
KENT	226	274	321	402	452
KIMBLE	204	248	292	365	408
KINNEY	217	266	311	383	426
KNOX	220	269	317	393	438
LAMB	220	269	317	393	438
LA SALLE	211	258	303	378	424
LEE	232	281	331	415	465
LIMESTONE	200	243	285	358	400
LIVE OAK	251	306	360	449	504
LOVING	195	236	277	347	390
MCCULLOCH	204	248	292	365	408
MADISON	241	292	344	430	481
MARTIN	214	262	307	384	430
MATAGORDA	269	326	384	480	538
MEDINA	234	284	336	420	469
MILAM	232	281	331	415	465
MITCHELL	226	274	321	402	452
MOORE	237	287	339	424	474
MOTLEY	220	269	317	393	438
NAVARRO	200	243	285	358	400
NOLAN	226	274	321	402	452
OLDHAM	237	287	339	424	474
PANOLA	228	276	325	406	456
PECOS	195	236	277	347	390
PRESIDIO	195	236	277	347	390
REAGAN	204	248	292	365	408
RED RIVER	240	292	343	430	480
REFUGIO	251	306	360	449	504
ROBERTSON	234	283	334	417	467
RUSK	228	276	325	406	456
SAN AUGUSTIN	208	253	299	374	418
SAN SABA	220	269	317	393	438
SCURRY	226	274	321	402	452
SHELBY	208	253	299	374	418
SOMERVELL	200	243	285	358	400
STEPHENS	226	274	321	402	452
STONEWALL	226	274	321	402	452
SWISHER	237	287	339	424	474
TERRY	220	269	317	393	438
TITUS	240	292	343	430	480

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLEMAN	220	269	317	393	438
COLORADO	269	326	384	480	538
CONCHO	204	248	292	365	408
COTTLE	218	266	312	391	437
CROCKETT	204	248	292	365	408
CULBERSON	195	236	277	347	390
DAWSON	214	262	307	384	430
DELTA	240	292	343	430	480
DICKENS	220	269	317	393	438
DONLEY	237	287	339	424	474
EASTLAND	226	274	321	402	452
ERATH	226	274	321	402	452
FANNIN	250	304	358	447	502
FISHER	226	274	321	402	452
FOARD	218	266	312	391	437
FREESTONE	200	243	285	358	400
GAINES	195	236	277	347	390
GILLESPIE	234	284	336	420	469
GOLIAD	245	299	351	439	493
GRAY	237	287	339	424	474
HALE	220	269	317	393	438
HAMILTON	214	262	307	384	431
HARDEMAN	218	266	312	391	437
HASKELL	226	274	321	402	452
HENDERSON	228	276	325	406	456
HOCKLEY	218	266	312	391	437
HOPKINS	240	292	343	430	480
HOWARD	214	262	307	384	430
HUNT	250	304	358	447	502
IRION	204	248	292	365	408
JACKSON	245	299	351	439	493
JEFF DAVIS	195	236	277	347	390
JIM WELLS	251	306	360	449	504
KARNES	192	234	275	344	385
KENEDY	251	306	360	449	504
KERR	234	284	336	420	469
KING	220	269	317	393	438
KLEBERG	251	306	360	449	504
LAMAR	240	292	343	430	480
LAMPASAS	214	262	307	384	431
LAUACA	245	299	351	439	493
LEON	241	292	344	430	481
LIPSCOMB	237	287	339	424	474
LLANO	214	262	307	384	431
LYNN	220	269	317	393	438
MCMULLEN	251	306	360	449	504
MARION	209	253	300	374	420
MASON	204	248	292	365	408
MAVERICK	217	266	311	383	426
MENARD	204	248	292	365	408
MILLS	220	269	317	393	438
MONTAGUE	218	266	312	391	437
MORRIS	240	292	343	430	480
NACOGDOCHES	265	320	378	472	529
NEWTON	251	306	360	449	504
OCHILTREE	237	287	339	424	474
PALO PINTO	226	274	321	402	452
PARMER	237	287	339	424	474
POLK	265	320	378	472	529
RAINS	216	265	309	382	422
REAL	217	266	311	383	426
REEVES	195	236	277	347	390
ROBERTS	237	287	339	424	474
RUNNELS	220	269	317	393	438
SABINE	208	253	299	374	418
SAN JACINTO	265	320	378	472	529
SCHLEICHER	204	248	292	365	408
SHACKLEFORD	226	274	321	402	452
SHERMAN	237	287	339	424	474
STARR	208	252	298	371	416
STERLING	204	248	292	365	408
SUTTON	204	248	292	365	408
TERRELL	195	236	277	347	390
THROCKMORTON	226	274	321	402	452
TRINITY	241	303	357	445	500

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

STATE: TEXAS

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
TYLER	241	292	344	430	481	UPSHUR	209	253	300	374	420
UPTON	214	262	307	384	430	UVALDE	217	266	311	383	426
VAL VERDE	217	266	311	383	426	VAN ZANDT	216	265	309	382	422
WALKER	274	334	393	492	550	WARD	195	236	277	347	390
WASHINGTON	241	292	344	430	481	WHARTON	269	326	384	480	538
WHEELER	237	287	339	424	474	WILBARGER	218	266	312	391	437
WILLACY	251	306	360	449	504	WILSON	192	234	275	344	385
WINKLER	195	236	277	347	390	WISE	269	326	384	480	538
WOOD	209	253	300	374	420	YOAKUM	220	269	317	393	438
YOUNG	218	266	312	391	437	ZAPATA	208	252	298	371	416
ZAVALA	217	266	311	383	426						

S T A T E: UTAH

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PROVO-OREM, UT MSA					
COUNTY(IES): UTAH	275	334	392	490	550
SALT LAKE CITY-OGDEN, UT MSA					
COUNTY(IES): DAVIS, SALT LAKE, WEBER	321	383	455	564	635

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BEAVER	300	365	430	536	601	BOX ELDER	277	336	396	495	555
CACHE	277	336	396	495	555	CARBON	343	416	489	612	685
DAGGETT	343	416	489	612	685	DUCHESNE	343	416	489	612	685
EMERY	343	416	489	612	685	GARFIELD	300	365	430	536	601
GRAND	343	416	489	612	685	IRON	300	365	430	536	601
JUAB	300	365	430	536	601	KANE	300	365	430	536	601
MILLARD	300	365	430	536	601	MORGAN	343	416	489	612	685
PIUTE	300	365	430	536	601	RICH	277	336	396	495	555
SAN JUAN	343	416	489	612	685	SANPETE	300	365	430	536	601
SEVIER	300	365	430	536	601	SUMMIT	343	416	489	612	685
TOOELE	277	336	396	495	555	UINTAH	343	416	489	612	685
WASATCH	343	416	489	612	685	WASHINGTON	328	394	465	580	652
WAYNE	300	365	430	536	601						

S T A T E: VERMONT

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BURLINGTON, VT MSA	388	472	554	693	777

COUNTY: CHITTENDEN TOWNS OF BURLINGTON, CHARLOTTE, COLCHESTER, ESSEX, HINESBURG, JERICHO, MILTON, RICHMOND, ST. GEORGE SHELBURNE, SOUTH BURLIN, WILLISTON, WINOOSKI
COUNTY: FRANKLIN TOWNS OF GEORGIA
COUNTY: GRAND ISLE TOWNS OF GRAND ISLE, SOUTH HERO

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADDISON COUNTY	311	377	444	554	621
BENNINGTON COUNTY	316	388	455	566	638
CALEDONIA COUNTY	265	321	378	473	530
CHITTENDEN COUNTY TOWNS OF BOLTON, BUELS, HUNTINGTON, UNDERHILL WESTFORD	359	437	515	644	721
ESSEX COUNTY	265	321	378	473	530
FRANKLIN COUNTY TOWNS OF BAKERSFIELD, BERKSHIRE, ENOSBURG, FAIRFAX FAIRFIELD, FLETCHER, FRANKLIN, HIGHGATE, MONTGOMERY, RICHFORD, ST. ALBANS, ST. ALBANS, SHELDON, SWANTON	288	350	410	511	571
GRAND ISLE COUNTY TOWNS OF ALBURG, ISLE LA MOTT, NORTH HERO	265	321	378	473	530
LAMOILLE COUNTY	265	321	378	473	530
ORANGE COUNTY	288	350	410	511	571
ORLEANS COUNTY	265	321	378	473	530
RUTLAND COUNTY	300	375	430	539	602
WASHINGTON COUNTY	316	388	455	566	638
WINDHAM COUNTY	300	365	430	539	602
WINDSOR COUNTY	300	365	430	539	602

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: VIRGINIA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHARLOTTESVILLE, VA MSA	330	402	472	591	661
COUNTY(IES): ALBEMARLE, FLUVANNA, GREENE, CHARLOTTESVI					
DANVILLE, VA MSA	253	307	361	451	505
COUNTY(IES): PITTSYLVANIA, DANVILLE					
JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA MSA	239	290	341	427	478
COUNTY(IES): SCOTT, WASHINGTON, BRISTOL					
LYNCHBURG, VA MSA	272	338	389	475	545
COUNTY(IES): AMHERST, CAMPBELL, LYNCHBURG					
NORFOLK-VIRGINIA BEACH-NEWPORT NEWS, VA MSA	316	379	437	538	601
COUNTY(IES): GLOUCESTER, JAMES CITY, YORK, CHESAPEAKE, HAMPTON, NEWPORT NEWS, NORFOLK, POQUOSON, PORTSMOUTH, SUFFOLK VIRGINIA BEA, WILLIAMSBURG					
RICHMOND-PETERSBURG, VA MSA	302	363	424	531	595
COUNTY(IES): CHARLES CITY, CHESTERFIELD, DINWIDDIE, GOOCHLAND, HANOVER, HENRICO, NEW KENT, POWHATAN, PRINCEGEORGE COLONIAL HGT, HOPEWELL, PETERSBURG, RICHMOND					
ROANOKE, VA MSA	265	322	378	474	531
COUNTY(IES): BOTETOURT, RO NOKE, ROANOKE, SALEM					
WASHINGTON, DC-MD-VA MSA	412	501	590	741	830
COUNTY(IES): ARLINGTON, FAIRFAX, LOUDOUN, PRINCEWILLIA, STAFFORD, ALEXANDRIA, FAIRFAX, FALLS CHURCH, MANASSAS MANASSAS PRK					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ACCOMACK	250	301	350	432	483	ALLEGHANY	264	321	377	472	529
AMELIA	219	265	312	391	438	APPOMATTOX	267	321	375	470	526
AUGUSTA	264	321	377	472	529	BATH	264	321	377	472	529
BEDFORD	228	277	327	408	457	BLAND	223	270	318	399	446
BRUNSWICK	207	251	295	370	414	BUCHANAN	253	307	361	451	506
BUCKINGHAM	219	265	312	391	438	CAROLINE	312	379	446	557	625
CARROLL	223	270	318	399	446	CHARLOTTE	219	265	312	391	438
CLARKE	265	322	378	474	531	CRAIG	207	251	295	369	413
CULPEPER	275	334	394	492	551	CUMBERLAND	219	265	312	391	438
DICKENSON	236	274	324	405	453	ESSEX	240	293	345	431	483
FAUQUIER	275	334	394	492	551	FLOYD	263	320	375	470	526
FRANKLIN	228	277	327	408	457	FREDERICK	265	322	378	474	531
GILES	263	320	375	470	526	GRAYSON	223	270	318	399	446
GREENSVILLE	207	251	295	370	414	HALIFAX	219	265	312	391	438
HENRY	265	322	378	473	530	HIGHLAND	264	321	377	472	529
ISLE OFWIGHT	214	260	302	377	414	KING + QUEEN	240	293	345	431	483
KING GEORGE	312	379	446	557	625	KING WILLIAM	240	293	345	431	483
LANCASTER	240	293	345	431	483	LEE	226	274	324	405	453
LOUISA	279	337	394	492	551	LUNENBURG	219	265	312	391	438
MADISON	279	337	394	492	551	MATHEWS	240	293	345	431	483
MECKLENBURG	207	251	295	370	414	MIDDLESEX	240	293	345	431	483
MONTGOMERY	321	389	457	574	641	NELSON	232	281	331	414	464
NORTHAMPTON	250	301	350	432	483	NORTHUMBERLD	240	293	345	431	483
NOTTOWAY	219	265	312	391	438	ORANGE	279	337	394	492	551
PAGE	265	322	378	474	531	PATRICK	228	277	327	408	457
PRINCEEDWARD	219	265	312	391	438	PULASKI	263	320	375	470	526
RAPPAHANNOCK	275	334	394	492	551	RICHMOND	240	293	345	431	483
ROCKBRIDGE	264	321	377	472	529	ROCKINGHAM	264	321	377	472	529
RUSSELL	253	307	361	451	506	SHENANDOAH	265	322	378	474	531
SMYTH	223	270	318	399	446	SOUTHAMPTON	214	260	302	377	414
SPOTSLYVANIA	312	379	446	557	625	SURRY	214	260	302	377	414
SUSSEX	207	251	295	370	414	TAZEWELL	253	307	361	451	506
WARREN	265	322	378	474	531	WESTMORELAND	240	293	345	431	483
WISE	255	308	363	453	508	WYTHE	242	294	341	422	471
BEDFORD	228	277	327	408	457	BUENA VISTA	264	321	377	472	529
CLIFTON FORG	264	321	377	472	529	COVINGTON	264	321	377	472	529
EMPORIA	207	251	295	370	414	FRANKLIN	207	251	295	370	414
FREDERICKBUR	312	379	446	557	625	GALAX	223	270	318	399	446
HARRISONBURG	264	321	377	472	529	LEXINGTON	264	321	377	472	529
MARTINSVILLE	265	322	378	473	530	NORTON	254	307	362	452	507
RADFORD	321	389	457	574	641	SOUTH BOSTON	219	265	312	391	438
STAUNTON	264	321	377	472	529	WAYNESBORO	264	321	377	472	529
WINCHESTER	265	322	378	474	531						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: WASHINGTON	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BELLINGHAM, WA MSA COUNTY(IES): WHATCOM	333	406	477	609	670
BREMERTON, WA MSA COUNTY(IES): KITSAP	335	408	479	599	672
OLYMPIA, WA MSA COUNTY(IES): THURSTON	347	421	496	620	695
RICHLAND-KENNEWICK-PASCO, WA MSA COUNTY(IES): BENTON, FRANKLIN	391	476	560	700	784
SEATTLE, WA PMSA COUNTY(IES): KING, SNOHOMISH	335	408	476	615	677
SPOKANE, WA MSA COUNTY(IES): SPOKANE	293	347	409	523	578
TACOMA, WA PMSA COUNTY(IES): PIERCE	289	351	413	537	599
VANCOUVER, WA PMSA COUNTY(IES): CLARK	258	314	391	509	571
YAKIMA, WA MSA COUNTY(IES): YAKIMA	305	370	435	545	611

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	249	302	354	444	498	ASOTIN	322	390	460	574	644
CHELAN	300	364	430	535	600	CLALLAM	324	393	463	578	649
COLUMBIA	322	390	460	574	644	COWLITZ	301	366	430	538	604
DOUGLAS	300	364	430	535	600	FERRY	249	302	354	444	498
GARFIELD	322	390	460	574	644	GRANT	249	302	354	444	498
GRAYS HARBOR	324	393	463	578	649	ISLAND	330	402	472	591	661
JEFFERSON	324	393	463	578	649	KITTITAS	274	332	392	491	549
KLICKITAT	301	366	430	538	604	LEWIS	301	366	430	538	604
LINCOLN	249	302	354	444	498	MASON	324	393	463	578	649
OKANOGAN	274	332	392	491	549	PACIFIC	324	393	463	578	649
PEND OREILLE	249	302	354	444	498	SAN JUAN	330	402	472	591	661
SKAGIT	330	402	472	591	661	SKAMANIA	301	366	430	538	604
STEVENS	249	302	354	444	498	WAHKIAKUM	301	366	430	538	604
WALLA WALLA	322	390	460	574	644	WHITMAN	322	390	460	574	644

S T A T E: WEST VIRGINIA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHARLESTON, WV MSA COUNTY(IES): KANAWHA, PUTNAM	342	415	489	611	685
CUMBERLAND, MD-WV MSA COUNTY(IES): MINERAL	258	307	359	444	496
HUNTINGTON-ASHLAND, WV-KY-OH MSA COUNTY(IES): CABELL, WAYNE	282	342	403	504	566
PARKERSBURG-MARIETTA, WV-OH MSA COUNTY(IES): WOOD	262	317	374	469	524
STEUBENVILLE-WEIRTON, OH-WV MSA COUNTY(IES): BROOKE, HANCOCK	269	327	383	480	539
WHEELING, WV-OH MSA COUNTY(IES): MARSHALL, OHIO	265	322	380	475	532

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BARBOUR	215	261	307	385	431	BERKELEY	235	287	337	422	472
BOONE	245	296	349	436	488	BRAXTON	215	261	307	385	431
CALHOUN	284	332	385	500	552	CLAY	245	296	349	436	488
DODDRIDGE	239	292	344	429	481	FAYETTE	225	273	322	402	451
GILMER	261	313	380	471	518	GRANT	235	287	337	422	472
GREENBRIER	225	273	322	402	451	HAMPSHIRE	235	287	337	422	472
HARDY	235	287	337	422	472	HARRISON	284	332	385	500	552
JACKSON	284	332	385	500	552	JEFFERSON	235	287	337	422	472
LEWIS	215	261	307	385	431	LINCOLN	236	287	337	422	472
LOGAN	236	287	337	422	472	MCDOWELL	228	278	326	408	458
MARION	290	352	414	518	579	MASON	236	287	337	422	472
MERCER	231	282	332	415	465	MINGO	236	287	337	422	472
MONONGALIA	290	352	414	518	579	MONROE	236	284	332	415	465
MORGAN	235	287	337	422	472	NICHOLAS	225	273	322	402	451
PENDLETON	235	287	337	422	472	PLEASANTS	208	252	296	369	414
POCAHONTAS	225	273	322	402	451	PRESTON	290	352	414	518	579
RALEIGH	236	284	327	408	458	RANDOLPH	215	261	307	385	431
RITCHIE	208	252	296	369	414	ROANE	284	332	385	500	552
SUMMERS	236	284	332	415	465	TAYLOR	239	292	344	429	481
TUCKER	215	261	307	385	431	TYLER	208	252	296	369	414
UPSHUR	215	261	307	385	431	WEBSTER	225	273	322	402	451
WETZEL	249	301	355	443	497	WIRT	208	252	296	369	414
WYOMING	236	284	327	408	458						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: WISCONSIN	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
APPLETON-OSHKOSH-NEENAH, WI MSA COUNTY(IES): CALUMET, OUTAGAMIE, WINNEBAGO	261	318	375	469	524
DULUTH, MN-WI MSA COUNTY(IES): DOUGLAS	288	343	404	506	567
EAU CLAIRE, WI MSA COUNTY(IES): CHIPPEWA, EAU CLAIRE	259	316	372	464	520
GREEN BAY, WI MSA COUNTY(IES): BROWN	261	318	377	469	524
JANESVILLE-BELOIT, WI MSA COUNTY(IES): ROCK	289	352	414	518	580
KENOSHA, WI PMSA COUNTY(IES): KENOSHA	310	378	444	556	622
LA CROSSE, WI MSA COUNTY(IES): LA CROSSE	309	375	442	552	618
MADISON, WI MSA COUNTY(IES): DANE	309	377	449	545	628
MILWAUKEE, WI PMSA COUNTY(IES): MILWAUKEE, OZAUKEE, WASHINGTON, WAUKESHA	306	371	437	546	612
MINNEAPOLIS-ST. PAUL, MN-WI MSA COUNTY(IES): ST CROIX	359	435	516	645	720
RACINE, WI PMSA COUNTY(IES): RACINE	290	352	415	519	581
SHEBOYGAN, WI MSA COUNTY(IES): SHEBOYGAN	268	325	383	479	537
WAUSAU, WI MSA COUNTY(IES): MARATHON	261	318	375	469	524

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	267	323	381	477	535	ASHLAND	234	285	335	419	470
BARRON	254	309	363	454	510	BAYFIELD	234	285	335	419	470
BUFFALO	241	292	345	430	483	BURNETT	234	285	335	419	470
CLARK	254	309	363	454	510	COLUMBIA	244	295	348	435	487
CRAWFORD	229	280	328	411	460	DODGE	244	295	348	435	487
DOOR	240	289	340	419	469	DUNN	254	309	363	454	510
FLORENCE	229	280	328	411	460	FOND DU LAC	287	346	393	489	535
FOREST	249	302	355	445	497	GRANT	240	291	343	428	481
GREEN	249	302	353	439	486	GREEN LAKE	261	318	375	469	524
IOWA	240	291	343	428	481	IRON	234	285	335	419	470
JACKSON	241	292	345	430	483	JEFFERSON	279	338	398	497	558
JUNEAU	267	323	381	477	535	KEWAUNEE	240	289	340	419	469
LAFAYETTE	240	291	343	428	481	LANGLADE	249	302	355	445	497
LINCOLN	249	302	355	445	497	MANITOWOC	240	289	340	419	469
MARINETTE	234	282	330	413	460	MARQUETTE	234	285	335	419	470
MENOMINEE	234	285	335	419	470	MONROE	241	292	345	430	483
OCONTO	229	280	328	411	460	ONEIDA	249	302	355	445	497
PEPIN	241	292	345	430	483	PIERCE	241	292	345	430	483
POLK	254	309	363	454	510	PORTAGE	267	323	381	477	535
PRICE	234	285	335	419	470	RICHLAND	240	291	343	428	481
RUSK	234	285	335	419	470	SAUK	244	295	348	435	487
SAWYER	234	285	335	419	470	SHAWANO	234	285	335	419	470
TAYLOR	234	285	335	419	470	TREMPEALEAU	241	292	345	430	483
VERNON	229	280	328	411	460	VILAS	249	302	355	445	497
WALWORTH	279	338	398	497	558	WASHBURN	234	285	335	419	470
WAUPACA	234	285	335	419	470	WAUSHARA	234	285	335	419	470
WOOD	267	323	381	477	535						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 082487

S T A T E: WYOMING	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CASPER, WY MSA			384	467	548	686	769
COUNTY(IES): NATRONA							
CHEYENNE, WY MSA			318	384	455	571	637
COUNTY(IES): LARAMIE							

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBANY	246	302	357	445	494	BIG HORN	252	307	362	450	504
CAMPBELL	246	302	357	445	494	CARBON	246	302	357	445	494
CONVERSE	246	302	357	445	494	CROOK	246	307	362	450	504
FREMONT	246	302	357	445	494	GOSHEN	246	302	357	445	494
HOT SPRINGS	252	307	362	450	504	JOHNSON	246	302	357	445	494
LINCOLN	246	302	357	445	494	NIOBRARA	246	302	357	445	494
PARK	252	307	362	450	504	PLATTE	246	302	357	445	494
SHERIDAN	340	416	489	609	686	SUBLETTE	246	302	357	445	494
SWEETWATER	246	302	357	445	494	TETON	323	389	460	576	647
UINTA	246	302	357	445	494	WASHAKIE	252	307	362	450	504
WESTON	252	307	362	450	504						

STATE: GUAM

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GUAM	399	480	567	709	797						

S T A T E: PUERTO RICO	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AGUADILLA, PR MSA			225	275	325	405	455
COUNTY(IES): AQUADELLA							
ARECIBO, PR MSA			330	400	470	590	660
COUNTY(IES): ARECIBO							
CAGUAS, PR PMSA			275	330	390	490	545
COUNTY(IES): CAGUAS							
MAYAGUEZ, PR MSA			225	275	325	405	455
COUNTY(IES): MAYAGUEZ							
PONCE, PR MSA			320	390	460	575	645
COUNTY(IES): PONCE							
SAN JUAN, PR PMSA			320	390	460	575	645
COUNTY(IES): SAN JUAN							

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALL OTHER	215	265	310	390	435						

STATE: VIRGIN ISLANDS

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
-CHAR.AMALIE	355	435	510	640	715	ST. CROIX	300	365	430	540	600
ST. THOMAS	335	410	480	600	670						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE D= FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: ALABAMA	66	76
MSA: ANNISTON, AL	69	77
MSA: BIRMINGHAM, AL	97	107
MSA: COLUMBUS, GA-AL	88	97
MSA: DOTHAN, AL	64	73
MSA: FLORENCE, AL	77	83
MSA: GADSDEN, AL	69	77
MSA: HUNTSVILLE, AL	97	107
MSA: MOBILE, AL	78	84
MSA: MONTGOMERY, AL	78	83
MSA: TUSCALOOSA, AL	90	103
EXCEPTION COUNTY: LIMESTONE	81	89
EXCEPTION COUNTY: MARSHALL	81	89
NON METRO STATE: ALASKA	202	202
MSA: ANCHORAGE, AK	224	224
EXCEPTION COUNTY: KETCHIKAN	202	214
NON METRO STATE: ARIZONA	93	118
MSA: PHOENIX, AZ	129	153
MSA: TUCSON, AZ	93	129
NON METRO STATE: ARKANSAS	38	42
MSA: FAYETTEVILLE-SPRINGDALE, AR	61	65
MSA: FORT SMITH, AR-OK	35	38
MSA: LITTLE ROCK-NORTH LITTLE ROCK, AR	52	54
MSA: MEMPHIS, TN-AR-MS	89	89
MSA: PINE BLUFF, AR	28	30
MSA: TEXARKANA, TX-TEXARKANA, AR	106	119
EXCEPTION COUNTY: BENTON	53	55
EXCEPTION COUNTY: LITTLE RIVER	88	99
NON METRO STATE: CALIFORNIA	145	190
PMSA: ANAHEIM-SANTA ANA, CA	339	339
MSA: BAKERSFIELD, CA	136	207
MSA: CHICO, CA	145	190
MSA: FRESNO, CA	207	233
PMSA: LOS ANGELES-LONG BEACH, CA	165	276
MSA: MERCED, CA	145	190
MSA: MODESTO, CA	216	233
PMSA: OAKLAND, CA	235	307

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: OXNARD-VENTURA, CA	212	319
MSA: REDDING, CA	145	190
PMSA: RIVERSIDE-SAN BERNARDINO, CA	140	221
MSA: SACRAMENTO, CA	167	199
MSA: SALINAS-SEASIDE-MONTEREY, CA	207	260
MSA: SAN DIEGO, CA	217	273
PMSA: SAN FRANCISCO, CA	252	328
PMSA: SAN JOSE, CA	299	349
MSA: SANTA BARBARA-SANTA MARIA-LOMPOC, CA	171	260
PMSA: SANTA CRUZ, CA	219	274
PMSA: SANTA ROSA-PETALUMA, CA	219	263
MSA: STOCKTON, CA	216	233
PMSA: VALLEJO-FAIRFIELD-NAPA, CA	228	260
MSA: VISALIA-TULARE-PORTERVILLE, CA	145	190
MSA: YUBA CITY, CA	145	190
EXCEPTION COUNTY: SAN LUIS OBI	198	233
NON METRO STATE: COLORADO	N/A	N/A
PMSA: BOULDER-LONGMONT, CO	222	243
MSA: COLORADO SPRINGS, CO	136	153
PMSA: DENVER, CO	253	273
MSA: FORT COLLINS-LOVELAND, CO	129	145
MSA: GREELEY, CO	129	145
MSA: PUEBLO, CO	129	145
EXCEPTION COUNTY: ALAMOSA	108	129
EXCEPTION COUNTY: ARCHULETA	129	145
EXCEPTION COUNTY: BACA	108	129
EXCEPTION COUNTY: BENT	108	129
EXCEPTION COUNTY: CHAFFEE	129	145
EXCEPTION COUNTY: CHEYENNE	108	129
EXCEPTION COUNTY: CLEAR CREEK	129	145
EXCEPTION COUNTY: CONEJOS	108	129
EXCEPTION COUNTY: COSTILLA	108	129
EXCEPTION COUNTY: CROWLEY	108	129
EXCEPTION COUNTY: CUSTER	129	145
EXCEPTION COUNTY: DELTA	129	145
EXCEPTION COUNTY: DELORES	129	145
EXCEPTION COUNTY: EAGLE	208	233
EXCEPTION COUNTY: ELBERT	108	129
EXCEPTION COUNTY: FREMONT	129	145
EXCEPTION COUNTY: GARFIELD	208	233
EXCEPTION COUNTY: GILPIN	164	189
EXCEPTION COUNTY: GRAND	129	145
EXCEPTION COUNTY: GUNNISON	129	145
EXCEPTION COUNTY: HINSDALE	129	145

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: HUERFANO	108	129
EXCEPTION COUNTY: JACKSON	129	145
EXCEPTION COUNTY: KIOWA	108	129
EXCEPTION COUNTY: KIT CARSON	108	129
EXCEPTION COUNTY: LAKE	129	145
EXCEPTION COUNTY: LA PLATA	129	145
EXCEPTION COUNTY: LAS ANIMAS	108	129
EXCEPTION COUNTY: LINCOLN	108	129
EXCEPTION COUNTY: LOGAN	108	129
EXCEPTION COUNTY: MESA	129	145
EXCEPTION COUNTY: MINERAL	108	129
EXCEPTION COUNTY: MOFFAT	208	233
EXCEPTION COUNTY: MONTEZUMA	129	145
EXCEPTION COUNTY: MONTROSE	129	145
EXCEPTION COUNTY: MORGAN	108	129
EXCEPTION COUNTY: OTERO	108	129
EXCEPTION COUNTY: OURAY	129	145
EXCEPTION COUNTY: PARK	129	145
EXCEPTION COUNTY: PHILLIPS	108	129
EXCEPTION COUNTY: PITKIN	208	233
EXCEPTION COUNTY: PROWERS	108	129
EXCEPTION COUNTY: RIO BLANCO	208	233
EXCEPTION COUNTY: RIO GRANDE	108	129
EXCEPTION COUNTY: ROUTT	208	233
EXCEPTION COUNTY: SAGUACHE	108	129
EXCEPTION COUNTY: SAN JUAN	129	145
EXCEPTION COUNTY: SAN MIGUEL	129	145
EXCEPTION COUNTY: SEDGWICK	108	129
EXCEPTION COUNTY: SUMMIT	208	233
EXCEPTION COUNTY: TELLER	108	129
EXCEPTION COUNTY: WASHINGTON	108	129
EXCEPTION COUNTY: YUMA	108	129
NON METRO STATE: CONNECTICUT	134	134
PMSA: BRIDGEPORT-MILFORD, CT	172	172
PMSA: BRISTOL, CT	134	134
PMSA: DANBURY, CT	131	131
PMSA: HARTFORD, CT	146	146
PMSA: MIDDLETOWN, CT	146	146
PMSA: NEW BRITAIN, CT	146	146
MSA: NEW HAVEN-MERIDEN, CT	131	131
MSA: NEW LONDON-NORWICH, CT-RI	125	125
PMSA: NORWALK, CT	161	161
PMSA: STAMFORD, CT	161	161
MSA: WATERBURY, CT	134	134

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: DELAWARE	67	67
PMSA: WILMINGTON, DE-NJ-MD	120	120
NON METRO STATE: DIST. OF COLUMBIA	155	155
MSA: WASHINGTON, DC-MD-VA	162	162
NON METRO STATE: FLORIDA	83	83
MSA: BRADENTON, FL	119	119
MSA: DAYTONA BEACH, FL	106	106
PMSA: FORT LAUDERDALE-HOLLYWOOD-POMPANO BEACH, FL	171	171
MSA: FORT MYERS-CAPE CORAL, FL	111	111
MSA: FORT PIERCE, FL	81	81
MSA: FORT WALTON BEACH, FL	83	83
MSA: GAINESVILLE, FL	83	83
MSA: JACKSONVILLE, FL	77	89
MSA: LAKELAND-WINTER HAVEN, FL	83	83
MSA: MELBOURNE-TITUSVILLE-PALM BAY, FL	97	97
PMSA: MIAMI-HIALEAH, FL	135	135
MSA: NAPLES, FL	83	83
MSA: OCALA, FL	83	83
MSA: ORLANDO, FL	97	97
MSA: PANAMA CITY, FL	83	83
MSA: PENSACOLA, FL	83	83
MSA: SARASOTA, FL	111	111
MSA: TALLAHASSEE, FL	77	77
MSA: TAMPA-ST. PETERSBURG-CLEARWATER, FL	111	111
MSA. WEST PALM BEACH-BOCA RATON-DELRAY BEACH, FL	140	140
EXCEPTION COUNTY: BAKER	75	87
EXCEPTION COUNTY: WAKULLA	75	87
NON METRO STATE: GEORGIA	60	60
MSA: ALBANY, GA	53	56
MSA: ATHENS, GA	60	60
MSA: ATLANTA, GA	93	99
MSA: AUGUSTA, GA-SC	81	83
MSA: CHATTANOOGA, TN-GA	53	77
MSA: COLUMBUS, GA-AL	88	97
MSA: MACON-WARNER ROBINS, GA	54	59
MSA: SAVANNAH, GA	67	77
EXCEPTION COUNTY: BRYAN	60	64
EXCEPTION COUNTY: TWIGGS	53	58
NON METRO STATE: HAWAII	N/A	N/A

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: HONOLULU, HI	N/A	N/A
NON METRO STATE: IDAHO	108	108
MSA: BOISE CITY, ID	116	135
NON METRO STATE: ILLINOIS	102	110
PMSA: AURORA-ELGIN, IL	196	211
MSA: BLOOMINGTON-NORMAL, IL	115	115
MSA: CHAMPAIGN-URBANA-RANTOUL, IL	94	94
PMSA: CHICAGO, IL	207	222
MSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL	126	132
MSA: DECATUR, IL	126	126
PMSA: JOLIET, IL	207	222
MSA: KANKAKEE, IL	92	92
PMSA: LAKE COUNTY, IL	196	211
MSA: PEORIA, IL	170	187
MSA: ROCKFORD, IL	167	178
MSA: ST. LOUIS, MO-IL	96	111
MSA: SPRINGFIELD, IL	110	117
NON METRO STATE: INDIANA	56	73
MSA: ANDERSON, IN	63	63
MSA: BLOOMINGTON, IN	59	59
PMSA: CINCINNATI, OH-KY-IN	108	113
MSA: ELKHART-GOSHEN, IN	81	81
MSA: EVANSVILLE, IN-KY	74	79
MSA: FORT WAYNE, IN	70	94
PMSA: GARY-HAMMOND, IN	100	115
MSA: INDIANAPOLIS, IN	88	100
MSA: KOKOMO, IN	81	93
MSA: LAFAYETTE-WEST LAFAYETTE, IN	75	111
MSA: LOUISVILLE, KY-IN	79	87
MSA: MUNCIE, IN	60	68
MSA: SOUTH BEND-MISHAWAKA, IN	93	97
MSA: TERRE HAUTE, IN	59	73
EXCEPTION COUNTY: ADAMS	57	75
EXCEPTION COUNTY: BLACKFORD	64	73
EXCEPTION COUNTY: GIBSON	60	73
EXCEPTION COUNTY: GRANT	64	73
EXCEPTION COUNTY: HENRY	64	73
EXCEPTION COUNTY: JAY	64	73
EXCEPTION COUNTY: MARSHALL	74	78
EXCEPTION COUNTY: RANDOLPH	64	73

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: SULLIVAN	57	69
EXCEPTION COUNTY: VERMILLION	57	69
EXCEPTION COUNTY: WAYNE	64	73
EXCEPTION COUNTY: WELLS	57	75
NON METRO STATE: IOWA	88	95
MSA: CEDAR RAPIDS, IA	100	117
MSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL	126	132
MSA: DES MOINES, IA	108	115
MSA: DUBUQUE, IA	100	124
MSA: IOWA CITY, IA	100	115
MSA: OMAHA, NE-IA	95	110
MSA: SIOUX CITY, IA-NE	97	97
MSA: WATERLOO-CEDAR FALLS, IA	100	117
NON METRO STATE: KANSAS	77	88
MSA: KANSAS CITY, MO-KS	95	116
MSA: LAWRENCE, KS	79	91
MSA: TOPEKA, KS	77	88
MSA: WICHITA, KS	91	96
EXCEPTION COUNTY: JEFFERSON	74	85
EXCEPTION COUNTY: OSAGE	74	85
NON METRO STATE: KENTUCKY	73	80
PMSA: CINCINNATI, OH-KY-IN	108	113
MSA: CLARKSVILLE-HOPKINSVILLE, TN-KY	77	83
MSA: EVANSVILLE, IN-KY	73	79
MSA: HUNTINGTON-ASHLAND, WV-KY-OH	83	83
MSA: LEXINGTON-FAYETTE, KY	90	104
MSA: LOUISVILLE, KY-IN	79	86
MSA: OWENSBORO, KY	84	100
NON METRO STATE: LOUISIANA	78	90
MSA: ALEXANDRIA, LA	77	89
MSA: BATON ROUGE, LA	89	106
MSA: HOUMA-THIBODAUX, LA	76	88
MSA: LAFAYETTE, LA	83	97
MSA: LAKE CHARLES, LA	88	104
MSA: MONROE, LA	77	89
MSA: NEW ORLEANS, LA	94	109
MSA: SHREVEPORT, LA	83	97
EXCEPTION COUNTY: GRANT	75	87

NOTE: TO IDENTIFY COUNTIES 'AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: WEBSTER	78	90
NON METRO STATE: MAINE	119	137
MSA: BANGOR, ME	119	137
MSA: LEWISTON-AUBURN, ME	91	91
MSA: PORTLAND, ME	148	168
MSA: PORTSMOUTH-DOVER-ROCHESTER, NH-ME	119	137
NON METRO STATE: MARYLAND	120	120
MSA: BALTIMORE, MD	180	180
MSA: CUMBERLAND, MD-WV	120	120
MSA: HAGERSTOWN, MD	151	151
MSA: WASHINGTON, DC-MD-VA	162	162
PMSA: WILMINGTON, DE-NJ-MD	120	120
EXCEPTION COUNTY: ST MARYS	164	164
NON METRO STATE: MASSACHUSETTS	146	146
PMSA: BOSTON, MA	139	150
PMSA: BROCKTON, MA	139	139
PMSA: FALL RIVER, MA-RI	91	91
MSA: FITCHBURG-LEOMINSTER, MA	109	109
PMSA: LAWRENCE-HAVERHILL, MA-NH	131	140
PMSA: LOWELL, MA-NH	131	140
MSA: NEW BEDFORD, MA	126	126
PMSA: PAWTUCKET-WOONSOCKET-ATTLEBORO, RI-MA	125	125
MSA: PITTSFIELD, MA	135	135
PMSA: SALEM-GLOUCESTER, MA	139	150
MSA: SPRINGFIELD, MA	107	107
MSA: WORCESTER, MA	94	94
NON METRO STATE: MICHIGAN	110	122
PMSA: ANN ARBOR, MI	157	170
MSA: BATTLE CREEK, MI	95	110
MSA: BENTON HARBOR, MI	110	122
PMSA: DETROIT, MI	154	164
MSA: FLINT, MI	134	134
MSA: GRAND RAPIDS, MI	100	109
MSA: JACKSON, MI	110	110
MSA: KALAMAZOO, MI	116	119
MSA: LANSING-EAST LANSING, MI	129	149
MSA: MUSKEGON, MI	100	102
MSA: SAGINAW-BAY CITY-MIDLAND, MI	117	117

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: BARRY	91	105
EXCEPTION COUNTY: IONIA	110	122
EXCEPTION COUNTY: OCEANA	96	98
EXCEPTION COUNTY: SHIAWASSEE	128	128
EXCEPTION COUNTY: VAN BUREN	110	114
NON METRO STATE: MINNESOTA	79	79
MSA: DULUTH, MN-WI	81	92
MSA: FARGO-MOORHEAD, ND-MN	123	140
MSA: MINNEAPOLIS-ST. PAUL, MN-WI	157	157
MSA: ROCHESTER, MN	114	114
MSA: ST. CLOUD, MN	100	100
EXCEPTION COUNTY: POLK	121	137
NON METRO STATE: MISSISSIPPI	78	90
MSA: BILOXI-GULFPORT, MS	89	106
MSA: JACKSON, MS	97	119
MSA: MEMPHIS, TN-AR-MS	89	89
MSA: PASCAGOULA, MS	77	89
EXCEPTION COUNTY STONE	78	90
NON METRO STATE: MISSOURI	62	69
MSA: COLUMBIA, MO	88	95
MSA: JOPLIN, MO	62	69
MSA: KANSAS CITY, MO-KS	95	116
MSA: ST. JOSEPH, MO	91	97
MSA: ST. LOUIS, MO-IL	96	111
MSA: SPRINGFIELD, MO	64	70
EXCEPTION COUNTY: ANDREW	86	93
NON METRO STATE: MONTANA	N/A	N/A
MSA: BILLINGS, MT	161	179
MSA: GREAT FALLS, MT	136	153
EXCEPTION COUNTY: BEAVERHEAD	129	145
EXCEPTION COUNTY: BIG HORN	129	145
EXCEPTION COUNTY: BLAINE	93	108
EXCEPTION COUNTY: BROADWATER	129	145
EXCEPTION COUNTY: CARBON	129	145
EXCEPTION COUNTY: CARTER	93	108
EXCEPTION COUNTY: CHOUTEAU	93	108
EXCEPTION COUNTY: CUSTER	129	145
EXCEPTION COUNTY: DANIELS	93	108

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: DAWSON	129	145
EXCEPTION COUNTY: DEER LODGE	129	145
EXCEPTION COUNTY: FALLON	93	108
EXCEPTION COUNTY: FERGUS	93	108
EXCEPTION COUNTY: FLATHEAD	129	145
EXCEPTION COUNTY: GALLATIN	129	145
EXCEPTION COUNTY: GARFIELD	93	108
EXCEPTION COUNTY: GLACIER	93	108
EXCEPTION COUNTY: GOLDEN VALLE	93	108
EXCEPTION COUNTY: GRANITE	129	145
EXCEPTION COUNTY: HILL	93	108
EXCEPTION COUNTY: JEFFERSON	129	145
EXCEPTION COUNTY: JUDITH BASIN	93	108
EXCEPTION COUNTY: LAKE	129	145
EXCEPTION COUNTY: LEWIS+ CLARK	129	145
EXCEPTION COUNTY: LIBERTY	93	108
EXCEPTION COUNTY: LINCOLN	129	145
EXCEPTION COUNTY: MCCONE	93	108
EXCEPTION COUNTY: MADISON	129	145
EXCEPTION COUNTY: MEAGHER	129	145
EXCEPTION COUNTY: MINERAL	129	145
EXCEPTION COUNTY: MISSOULA	129	145
EXCEPTION COUNTY: MUSSELSHELL	129	145
EXCEPTION COUNTY: PARK	129	145
EXCEPTION COUNTY: PETROLEUM	93	108
EXCEPTION COUNTY: PHILLIPS	93	108
EXCEPTION COUNTY: PONDERA	93	108
EXCEPTION COUNTY: POWDER RIVER	129	145
EXCEPTION COUNTY: POWELL	129	145
EXCEPTION COUNTY: PRAIRIE	93	108
EXCEPTION COUNTY: RAVALLI	129	145
EXCEPTION COUNTY: RICHLAND	93	108
EXCEPTION COUNTY: ROOSEVELT	93	108
EXCEPTION COUNTY: ROSEBUD	129	145
EXCEPTION COUNTY: SANDERS	129	145
EXCEPTION COUNTY: SHERIDAN	93	108
EXCEPTION COUNTY: SILVER BOW	129	145
EXCEPTION COUNTY: STILLWATER	93	108
EXCEPTION COUNTY: SWEET GRASS	93	108
EXCEPTION COUNTY: TETON	93	108
EXCEPTION COUNTY: TOOLE	93	108
EXCEPTION COUNTY: TREASURE	129	145
EXCEPTION COUNTY: VALLEY	93	108
EXCEPTION COUNTY: WHEATLAND	93	108
EXCEPTION COUNTY: WIBAUX	93	108
EXCEPTION COUNTY: YL-ST-NT-PK	129	145

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: NEBRASKA	80	98
MSA: LINCOLN, NE	109	115
MSA: OMAHA, NE-IA	95	110
MSA: SIOUX CITY, IA-NE	97	97
NON METRO STATE: NEVADA	102	118
MSA: LAS VEGAS, NV	216	241
MSA: RENO, NV	216	241
NON METRO STATE: NEW HAMPSHIRE	108	119
PMSA: LAWRENCE-HAVERHILL, MA-NH	131	140
PMSA: LOWELL, MA-NH	131	140
MSA: MANCHESTER, NH	123	134
PMSA: NASHUA, NH	150	150
MSA: PORTSMOUTH-DOVER-ROCHESTER, NH-ME	119	136
NON METRO STATE: NEW JERSEY	111	111
MSA: ALLENTOWN-BETHLEHEM, PA-NJ	109	109
MSA: ATLANTIC CITY, NJ	170	170
PMSA: BERGEN-PASSAIC, NJ	228	229
PMSA: JERSEY CITY, NJ	221	221
PMSA: MIDDLESEX-SOMERSET-HUNTERDON, NJ	259	259
PMSA: MONMOUTH-OCEAN, NJ	199	240
PMSA: NEWARK, NJ	214	221
PMSA: PHILADELPHIA, PA-NJ	189	189
PMSA: TRENTON, NJ	167	167
PMSA: VINELAND-MILLVILLE-BRIDGETON, NJ	147	147
PMSA: WILMINGTON, DE-NJ-MD	120	120
NON METRO STATE: NEW MEXICO	97	111
MSA: LAS CRUCES, NM	97	111
MSA: ALBUQUERQUE, NM	108	125
MSA: SANTA FE, NM	97	111
EXCEPTION COUNTY: SANDOVAL	102	116
NON METRO STATE: NEW YORK	129	129
MSA: ALBANY-SCHENECTADY-TROY, NY	160	160
MSA: BINGHAMTON, NY	96	96
PMSA: BUFFALO, NY	117	117
MSA: ELMIRA, NY	103	103

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SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: GLENS FALLS, NY	129	129
PMSA: NASSAU-SUFFOLK, NY	174	225
PMSA: NEW YORK, NY	181	181
PMSA: NIAGARA FALLS, NY	113	113
PMSA: ORANGE COUNTY, NY	125	125
MSA: POUGHKEEPSIE, NY	166	166
MSA: ROCHESTER, NY	146	146
MSA: SYRACUSE, NY	119	119
MSA: UTICA-ROME, NY	109	109
NON METRO STATE: NORTH CAROLINA	54	67
MSA: ASHEVILLE, NC	77	89
MSA: BURLINGTON, NC	77	89
MSA: CHARLOTTE-GASTONIA-ROCK HILL, NC-SC	77	89
MSA: FAYETTEVILLE, NC	77	89
MSA: GREENSBORO--WINSTON-SALEM--HIGH POINT, NC	77	89
MSA: HICKORY, NC	54	67
MSA: JACKSONVILLE, NC	54	67
MSA: RALEIGH-DURHAM, NC	77	89
MSA: WILMINGTON, NC	77	89
EXCEPTION COUNTY: BRUNSWICK	64	76
EXCEPTION COUNTY: CURRITUCK	101	101
EXCEPTION COUNTY: MADISON	64	76
NON METRO STATE: NORTH DAKOTA	99	115
MSA: BISMARCK, ND	141	156
MSA: FARGO-MOORHEAD, ND-MN	124	140
MSA: GRAND FORKS, ND	108	133
NON METRO STATE: OHIO	72	72
PMSA: AKRON, OH	108	108
MSA: CANTON, OH	77	77
PMSA: CINCINNATI, OH-KY-IN	108	113
PMSA: CLEVELAND, OH	116	116
MSA: COLUMBUS, OH	100	117
MSA: DAYTON-SPRINGFIELD, OH	77	77
PMSA: HAMILTON-MIDDLETOWN, OH	87	90
MSA: HUNTINGTON-ASHLAND, WV-KY-OH	84	84
MSA: LIMA, OH	100	100
PMSA: LORAIN-ELYRIA, OH	124	124
MSA: MANSFIELD, OH	95	95
MSA: PARKERSBURG-MARIETTA, WV-OH	84	84
MSA: STEUBENVILLE-WEIRTON, OH-WV	75	75

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: TOLEDO, OH	126	170
MSA: WHEELING, WV-OH	77	77
MSA: YOUNGSTOWN-WARREN, OH	95	95
EXCEPTION COUNTY: CHAMPAIGN	72	78
EXCEPTION COUNTY: OTTAWA	100	134
EXCEPTION COUNTY: PREBLE	72	72
EXCEPTION COUNTY: PUTNAM	81	81
EXCEPTION COUNTY: VAN WERT	81	81
NON METRO STATE: OKLAHOMA	75	81
MSA: ENID, OK	75	81
MSA: FORT SMITH, AR-OK	35	38
MSA: LAWTON, OK	76	83
MSA: OKLAHOMA CITY, OK	78	86
MSA: TULSA, OK	83	89
EXCEPTION COUNTY: LE FLORE	34	37
EXCEPTION COUNTY: MAYES	75	81
NON METRO STATE: OREGON	137	145
MSA: EUGENE-SPRINGFIELD, OR	161	166
MSA: MEDFORD, OR	137	145
PMSA: PORTLAND, OR	180	200
MSA: SALEM, OR	161	166
NON METRO STATE: PENNSYLVANIA	77	77
MSA: ALLENTOWN-BETHLEHEM, PA-NJ	109	109
MSA: ALTOONA, PA	100	100
PMSA: BEAVER COUNTY, PA	88	88
MSA: ERIE, PA	100	100
MSA: HARRISBURG-LEBANON-CARLISLE, PA	113	113
MSA: JOHNSTOWN, PA	100	100
MSA: LANCASTER, PA	104	104
PMSA: PHILADELPHIA, PA-NJ	189	189
PMSA: PITTSBURGH, PA	91	91
MSA: READING, PA	104	104
MSA: SCRANTON--WILKES-BARRE, PA	92	92
MSA: SHARON, PA	77	77
MSA: STATE COLLEGE, PA	77	77
MSA: WILLIAMSPORT, PA	77	77
MSA: YORK, PA	104	104
EXCEPTION COUNTY: SUSQUEHANNA	77	77
NON METRO STATE: RHODE ISLAND	119	119

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: FALL RIVER, MA-RI	91	91
MSA: NEW LONDON-NORWICH, CT-RI	125	125
PMSA: PAWTUCKET-WOONSOCKET-ATTLEBORO, RI-MA	125	125
PMSA: PROVIDENCE, RI	125	125
NON METRO STATE: SOUTH CAROLINA	60	60
MSA: ANDERSON, SC	60	60
MSA: AUGUSTA, GA-SC	81	83
MSA: CHARLESTON, SC	77	77
MSA: CHARLOTTE-GASTONIA-ROCK HILL, NC-SC	77	89
MSA: COLUMBIA, SC	67	77
MSA: FLORENCE, SC	60	60
MSA: GREENVILLE-SPARTANBURG, SC	67	67
NON METRO STATE: SOUTH DAKOTA	85	99
MSA: RAPID CITY, SD	85	99
MSA: SIOUX FALLS, SD	119	134
NON METRO STATE: TENNESSEE	60	60
MSA: CHATTANOOGA, TN-GA	53	77
MSA: CLARKSVILLE-HOPKINSVILLE, TN-KY	77	83
MSA: JACKSON, TN	60	60
MSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA	83	83
MSA: KNOXVILLE, TN	67	67
MSA: MEMPHIS, TN-AR-MS	89	89
MSA: NASHVILLE, TN	89	106
NON METRO STATE: TEXAS	65	81
NON METRO STATE: TEXAS	65	81
MSA: ABILENE, TX	56	63
MSA: AMARILLO, TX	104	109
MSA: AUSTIN, TX	94	111
MSA: BEAUMONT-PORT ARTHUR, TX	97	111
PMSA: BRAZORIA, TX	108	126
MSA: BROWNSVILLE-HARLINGEN, TX	77	89
MSA: BRYAN-COLLEGE STATION, TX	94	106
MSA: CORPUS CHRISTI, TX	81	106
PMSA: DALLAS, TX	83	106
MSA: EL PASO, TX	108	122
PMSA: FORT WORTH-ARLINGTON, TX	83	106

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: GALVESTON-TEXAS CITY, TX	105	118
PMSA: HOUSTON, TX	112	131
MSA: KILLEEN-TEMPLE, TX	97	106
MSA: LAREDO, TX	67	83
MSA: LONGVIEW-MARSHALL, TX	89	103
MSA: LUBBOCK, TX	103	106
MSA: MC ALLEN-EDINBURG-MISSION, TX	88	106
MSA: MIDLAND, TX	106	111
MSA: ODESSA, TX	106	111
MSA: SAN ANGELO, TX	89	97
MSA: SAN ANTONIO, TX	77	89
MSA: SHERMAN-DENISON, TX	83	97
MSA: TEXARKANA, TX-TEXARKANA, AR	106	119
MSA: TYLER, TX	83	87
MSA: VICTORIA, TX	65	81
MSA: WACO, TX	86	97
MSA: WICHITA FALLS, TX	60	67
EXCEPTION COUNTY: CALLAHAN	55	61
EXCEPTION COUNTY: CLAY	59	65
EXCEPTION COUNTY: HOOD	70	88
EXCEPTION COUNTY: JONES	55	61
EXCEPTION COUNTY: WISE	70	88
NON METRO STATE: UTAH	N/A	N/A
MSA: PROVO-OREM, UT	129	145
MSA: SALT LAKE CITY-OGDEN, UT	145	161
EXCEPTION COUNTY: BEAVER	93	108
EXCEPTION COUNTY: BOX ELDER	93	108
EXCEPTION COUNTY: CACHE	93	108
EXCEPTION COUNTY: CARBON	129	145
EXCEPTION COUNTY: DAGGETT	93	108
EXCEPTION COUNTY: DUCHESNE	93	108
EXCEPTION COUNTY: EMERY	129	145
EXCEPTION COUNTY: GARFIELD	93	108
EXCEPTION COUNTY: GRAND	129	145
EXCEPTION COUNTY: IRON	93	108
EXCEPTION COUNTY: JUAB	93	108
EXCEPTION COUNTY: KANE	93	108
EXCEPTION COUNTY: MILLARD	93	108
EXCEPTION COUNTY: MORGAN	93	108
EXCEPTION COUNTY: PIUTE	93	108
EXCEPTION COUNTY: RICH	93	108
EXCEPTION COUNTY: SAN JUAN	93	108
EXCEPTION COUNTY: SANPETE	93	108
EXCEPTION COUNTY: SEVIER	93	108

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: SUMMIT	93	108
EXCEPTION COUNTY: TOOELE	108	120
EXCEPTION COUNTY: UINTAH	129	145
EXCEPTION COUNTY: WASATCH	93	108
EXCEPTION COUNTY: WASHINGTON	93	108
EXCEPTION COUNTY: WAYNE	93	108
NON METRO STATE: VERMONT	112	129
MSA: BURLINGTON, VT	112	129
NON METRO STATE: VIRGINIA	86	86
MSA: CHARLOTTESVILLE, VA	86	86
MSA: DANVILLE, VA	86	86
MSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA	83	83
MSA: LYNCHBURG, VA	77	77
MSA: NORFOLK-VIRGINIA BEACH-NEWPORT NEWS, VA	121	121
MSA: RICHMOND-PETERSBURG, VA	119	119
MSA: ROANOKE, VA	83	83
MSA: WASHINGTON, DC-MD-VA	162	162
EXCEPTION COUNTY: APPOMATTOX	75	75
EXCEPTION COUNTY: CRAIG	81	81
NON METRO STATE: WASHINGTON	118	137
MSA: BELLINGHAM, WA	118	152
MSA: BREMERTON, WA	118	152
MSA: OLYMPIA, WA	118	152
MSA: RICHLAND-KENNEWICK-PASCO, WA	161	161
PMSA: SEATTLE, WA	150	211
MSA: SPOKANE, WA	129	145
PMSA: TACOMA, WA	134	158
PMSA: VANCOUVER, WA	168	185
MSA: YAKIMA, WA	129	136
NON METRO STATE: WEST VIRGINIA	83	83
MSA: CHARLESTON, WV	89	89
MSA: CUMBERLAND, MD-WV	120	120
MSA: HUNTINGTON-ASHLAND, WV-KY-OH	83	83
MSA: PARKERSBURG-MARIETTA, WV-OH	83	83
MSA: STEUBENVILLE-WEIRTON, OH-WV	75	75
MSA: WHEELING, WV-OH	77	77
EXCEPTION COUNTY: WIRT	81	81
NON METRO STATE: WISCONSIN	88	95

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 082187

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: APPLETON-OSHKOSH-NEENAH, WI	110	117
MSA: DULUTH, MN-WI	81	92
MSA: EAU CLAIRE, WI	102	111
MSA: GREEN BAY, WI	108	115
MSA: JANESVILLE-BELOIT, WI	108	115
PMSA: KENOSHA, WI	114	122
MSA: LA CROSSE, WI	97	106
MSA: MADISON, WI	162	169
PMSA: MILWAUKEE, WI	125	132
MSA: MINNEAPOLIS-ST. PAUL, MN-WI	157	157
PMSA: RACINE, WI	117	124
MSA: SHEBOYGAN, WI	88	95
MSA: WAUSAU, WI	88	95
NON METRO STATE: WYOMING	N/A	N/A
MSA: CASPER, WY	216	233
MSA: CHEYENNE, WY	129	154
EXCEPTION COUNTY: ALBANY	129	154
EXCEPTION COUNTY: BIG HORN	129	154
EXCEPTION COUNTY: CAMPBELL	216	233
EXCEPTION COUNTY: CARBON	216	233
EXCEPTION COUNTY: CONVERSE	216	233
EXCEPTION COUNTY: CROOK	129	154
EXCEPTION COUNTY: FREMONT	216	233
EXCEPTION COUNTY: GOSHEN	129	154
EXCEPTION COUNTY: HOT SPRINGS	129	154
EXCEPTION COUNTY: JOHNSON	129	154
EXCEPTION COUNTY: LARAMIE	129	154
EXCEPTION COUNTY: LINCOLN	129	154
EXCEPTION COUNTY: PARK	129	154
EXCEPTION COUNTY: PLATTE	129	154
EXCEPTION COUNTY: SHERIDAN	216	233
EXCEPTION COUNTY: SUBLETTE	129	154
EXCEPTION COUNTY: SWEETWATER	216	233
EXCEPTION COUNTY: TETON	129	154
EXCEPTION COUNTY: UINTA	129	154
EXCEPTION COUNTY: WASHAKIE	129	154
EXCEPTION COUNTY: WESTON	129	154

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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BILLING CODE 4210-27-C

federal register

Friday
August 28, 1987

Part IV

Commission on Education of the Deaf

Educational Programs for the Deaf; Draft Recommendations; Notice

COMMISSION OF EDUCATION OF THE DEAF

Educational Programs for the Deaf; Draft Recommendations

AGENCY: Commission on Education of the Deaf.

ACTION: Notice of draft recommendations.

SUMMARY: The U.S. Commission on Education of the Deaf solicits written comments on its first set of draft recommendations to Congress and the President. This first set of draft recommendations addresses the topics of "appropriate education" under the Education of the Handicapped Act, parents, right to be informed about educational options, early identification of hearing impairment in infants and young children, Regional Postsecondary Education Programs for the Deaf, student admission policies at Gallaudet University and the National Technical Institute for the Deaf, federally funded research activities, and television captioning services.

DATE: To be accepted for consideration, written comments should be received on or before October 15, 1987.

ADDRESS: Written comments should be sent to the Commission on Education of the Deaf, GSA Regional Office Building, Room 6646, 7th and D Streets, SW., Washington, DC 20407. For further information, contact Pat Johanson, Staff Director or Robert J. Mather, Staff Counsel, (202) 453–4353 (TDD) or (202) 453–4684 (Voice). These are not toll free numbers.

SUPPLEMENTARY INFORMATION: We, the Commission on Education of the Deaf (Commission), solicit written comments on the first of two sets of draft recommendations. It should be emphasized that these are recommendations, *not* proposed regulations. The Commission is not engaged in rule-making. The second set of draft recommendations is scheduled for publication in October and will include recommendations on other areas of interest such as the Model Secondary School for the Deaf and the Kendall Demonstration Elementary School, educational interpreting, teacher training, programs for low-achieving persons, captioned films, and technological advances in education. We will solicit public comments on those draft recommendations as well.

Established by the Education of the Deaf Act of 1986,[1] the Commission is directed to study infant, early childhood, elementary, secondary, postsecondary, adult, and continuing education programs for persons who are deaf. It must also study federally assisted programs relating to instructional media and captioning services. It must submit to Congress and to the President, not later than February 4, 1988, a final report of its study together with recommendations, including specific proposals for legislation, as the Commission deems advisable.

To receive input on the status of educational programs from the public to the fullest extent possible, we held five public meetings in geographically diverse locations (Washington D.C.; Clarkston, Georgia; Minneapolis, Minnesota; Seattle, Washington; and Santa Fe, New Mexico). We also published a list of questions to which we solicited written responses and recommendations. See Notice of Inquiry, 52 FR 10722 (April 2, 1987). Over 4,000 responses were received from over 450 organizations, parents, educators, specialists, consumers, and other interested individuals who participated in the public meetings or responded to the Notice. Among participating organizations were the American Society for Deaf Children, Conference of Educational Administrators Serving the Deaf, National Association of the Deaf, Alexander Graham Bell Association for the Deaf, Council of State Administrators of Vocational Rehabilitation, Council on Exceptional Children, National Cued Speech Association, Listen Inc., Gallaudet University, National Technical Institute for the Deaf, National Captioning Institute, and other institutions. We considered all the responses and testimonies in preparing the draft recommendations.

A major theme shaping many of the draft recommendations is that of improving quality and reducing costs through competition. We have incorporated the idea of competition into the recommendations for the regional postsecondary programs, for federally funded research activities, and for captioned television services. We believe that the quality of the regional programs, research activities, and captioning services would improve through the initiation, continuation, or expansion of competition.

We request all interested persons and organizations to submit written comments on the draft recommendations listed below. Counterproposals are welcome. Comments and counterproposals must be received in the Commission office by October 15, 1987.

I. Part B of the Education of the Handicapped Act (Act)

A. Appropriate Education and "Least Restrictive Environment (LRE)"

Discussion: Determining what comprises an appropriate education for a child who is deaf is one issue on which we received a substantially large number of responses. We have heard from numerous parents and educators that the unique needs of the individual child who is deaf have often been overlooked, that placement decisions are sometimes made without careful consideration of individual needs, and that the Act has been misinterpreted by placing emphasis on the "least restrictive environment" concept. Although they acknowledge that the intent of the Act has been to ensure an appropriate education, the emphasis on LRE has been more damaging than beneficial to many children who are deaf.

Certain things related to the concepts of appropriate education and LRE under the Act need to be clarified. One of its purposes is to assure that each handicapped child be provided with "a free appropriate public education" which emphasizes special education and related services designed to meet his/her unique needs.[2] The education must be tailored to the needs of each handicapped child by means of an individualized education program (IEP).[3]

The Act's "least restrictive environment" provision mandates that in order to be eligible for funds, states establish procedures to ensure that, to the maximum extent appropriate, handicapped children are educated with nonhandicapped children, and that special classes, separate schools, or other removal of handicapped children from the regular educational environment occur only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.[4] This provision "indicates a very strong congressional preference" for educating handicapped children in the regular classroom. See *Rockner* v. *Walter*, 700 F.2d 1058, 1063 (6th Cir.), *cert. denied*, 464 U.S. 864 (1983). Despite this preference, the Supreme Court in *Hendrick Hudson Dist. Educ.* v. *Rowley* stated that Congress recognized that regular classrooms were not suitable settings for the education of many handicapped children.[5] In fact, the Act

[1] Pub. L. 99–371, 100 Stat. 781, 786–789 (20 U.S.C. 4341–4344).

[2] 20 U.S.C. 1400(c).

[3] *See id.* at § 1401(18).

[4] *Id.* at § 1412(5).

[5] 458 U.S. 176, 181 n. 4 (1982).

specifically authorizes funding for special education in a classroom, hospital, institutional setting, or at the child's home.[6] Although LRE creates a strong preference in favor of regular school placement, it remains secondary to the Act's primary provision of an appropriate education for each handicapped child.

Some respondents expressed concern that emphasis on LRE engenders an approach which indiscriminately lumps the needs of persons with impaired hearing together with those of all other handicapped persons when determining placement goals. They recommended that we define and emphasize the unique ramifications of deafness which make the appropriate education for a deaf child different from that of any other child. Unlike most other disabilities, the major barriers associated with deafness relate to communication and language. The extensive educational needs created by the language barrier inherent in deafness require that the child be provided with an appropriate opportunity for language acquisition and healthy social and emotional development. Based on the numerous responses and statements, we find a compelling need for minimum requirements to ensure that an educational program meets the unique needs of a child who is deaf.

Draft Recommendation 1: Federal policy should require that determination of an "appropriate" special educational program for a child who is deaf take into consideration the following factors:

(a) Severity of hearing loss.
(b) Academic level.
(c) Communicative needs.
(d) Social needs.
(e) Emotional needs.
(f) Linguistic needs.

This list should *not* be considered an exhaustive summary of all relevant factors which warrant examination; neither does the order in which these factors are listed reflect the relative importance of each component. These factors, among others, should be considered relative to the child. We solicit comments on the draft recommendation and ask if other factors should be added to the list.

B. Parents' Right To Be Informed

Discussion: We received a number of responses and statements relating to the rights of parents under the Act in developing an IEP. The IEP is the mechanism whereby an educational and special services program is developed and implemented to meet the needs of a child. The contents of the IEP must be detailed and specific, including a statement of the degree to which the child will be able to participate in a regular educational program.

A number of parents expressed frustration that they were not informed on a periodic basis by school personnel about all educational options available to their children in the continuum of alternative placements. In a policy letter on a similar issue, the Department of Education's Office of Special Education Programs (OSEP) stated that during an IEP meeting, school personnel are not required to do so. OSEP explained that when the child is initially referred, the school district must provide written notice to the parents regarding the continuum of alternative placements, ranging from placement in the regular classroom with supplementary aids to placement in an institution. Since the parents should have already been informed, as OSEP stated, it would not be necessary for school personnel to initiate discussion about alternative placements during an IEP meeting. In this letter, OSEP stated that during the meeting the school district was not required to initiate discussion about residential placement if appropriate education would be provided in the regular educational setting.[7]

Although parents would have been initially informed about the placement options, we find it necessary for the school personnel to *again* inform parents, during each IEP meeting, about the availability of alternative placements for their child. We recognize that school personnel must legally specify the placement which provides maximum, appropriate education with nonhandicapped children; however, we wish to ensure that parents remain aware of other options within the continuum of alternative placements and that they understand how consideration of the individual needs of the child resulted in the particular placement decision. We emphasize that the following draft recommendation would apply to personnel in all school settings, including those in residential schools.

Draft Recommendation 2: Federal policy should be established to require that school personnel inform parents of all options in the continuum of alternative placements during each IEP meeting.

II. Early Identification of Hearing Impairment in Infants and Toddlers

Discussion: Early detection of hearing impairment in affected infants is important for medical treatment and subsequent educational intervention to assure development of communication skills. Despite sophisticated medical and audiological diagnostic techniques, a significant number of children with hearing impairments go undiagnosed and untreated for as long as three to six years. Although part H of the 1986 Amendments to the Education of the Handicapped Act authorizes federal financial assistance for states to develop and to implement a statewide system providing appropriate early intervention services to all handicapped toddlers and their families, and although a number of states have implemented various procedures for identifying children with hearing losses, no federal standards for identification procedures have been established.

Data were provided which suggested that the widespread use of a questionnaire examining the newborn's family history, the pregnancy or delivery, and the medical status of the newborn itself would increase the likelihood of identifying infants likely to be at risk for hearing loss. Subsequent follow-up assessment could then be conducted on these children to increase the likelihood of identifying adventitious or progressive hearing loss. In addition, respondents advocated strong public relations campaigns to medical professionals and the implementation of public awareness programs.

Draft Recommendation 3: Federal policy should mandate that states establish guidelines to implement improved screening procedures for each live birth using a high-risk registry and subsequent screening procedures for infants and young children considered to be at risk.

In addition to this recommendation, we advocate supplementary initiatives designed to disseminate information about hearing impairment recognition to health professionals, obstetricians, pediatricians, and family practitioners. Public awareness programs should also be implemented to advise educators and other professionals who have contact with young children about the signs and impact of hearing loss. One initiative discussed was the inclusion of a reminder about hearing loss in conjunction with the closed-caption television program logo. We request public input on how the federal government can promote greater awareness of hearing impairment among health professionals, educators, and the general public.

[6] 20 U.S.C. at § 1401(16).

[7] 1986 EHLR 211:383–4

III. Regional Postsecondary Education Programs (RPEPDs)

A. Strengthening and Expanding the Number of RPEPDs.

Discussion: The RPEPDs are currently located at California State University at Northridge, Seattle Central Community College, St. Paul Technical Vocational Institute, and the University of Tennessee Consortium. Federal funding for these programs comes in three-year competitive grants, with the amount of funding fluctuating from year to year, and from grant to grant.

Many comments pointed out that students in certain parts of the country do not have the same educational options as do students in other parts of the country. For example, a student living in Vermont who wishes to obtain vocational training may have to attend the St. Paul Technical Vocational Institute, some 2,000 miles away. Similarly, if a student from Iowa wants to attend a four-year baccalaureate program, that student may have to travel 1,500 miles to attend California State University at Northridge. To alleviate this situation, we are recommending that additional funding go to each RPEPD to enter into agreements with other universities and community colleges to provide a full range of educational choices within each region of the country. In other words, each RPEPD would provide a continuum of programs, from vocational training to baccalaureate degrees, in cooperation with established university and community college programs. We wish to emphasize that this recommendation does not absolve any university or college of the responsibility to provide support services to any deaf student, as required by section 504 of the Rehabilitation Act, nor does it diminish in any way the vital roles of Gallaudet University and the National Technical Institute for the Deaf.

Draft Recommendation 4:

(a) Each RPEPD should be strengthened to provide a broader range of educational options, including vocational and technical training, two year junior college and baccalaureate programs. Additional funding should be allocated.

(b) The number of RPEPDs should be increased to five. The additional program should be established in the southwest region of the United States to provide greater geographical coverage of the nation.

(c) Selection criteria for the RPEPDs should include:

(1) High quality programs.

(2) Adequate support services.

(3) Balanced and qualified faculty.

(4) A general policy to ensure greater accessibility for all deaf students attending the RPEPDs, including a waiver of increased tuition charge for out-of-state students.

In regard to the last criterion (4), we believe that a student should be able to attend a federally-funded regional program without incurring a financial penalty because the student may not reside in the state where the regional program is located.

We have not made any recommendations with respect to a specific amount of funding to implement these draft recommendations, but they entail additional funding. We have recognized that funding for these RPEPDs is currently rather limited (the appropriation for the current fiscal year is about $2 million). Only about two percent of federal money designated for deaf education is currently allocated to the RPEPDs with the rest ($89 million) distributed to Gallaudet University and the National Technical Institute for the Deaf.

B. Funding Cycles for the RPEPDs

Discussion: We received many comments about the problems inherent in the current three-year funding cycle for the RPEPDs, such as a lack of continuity, little opportunity for long-range planning, and difficulty in retaining quality staff. We noted that these comments were of legitimate concern, but felt that it was best to preserve some competition in the funding cycle so that an ineffectual regional program would not be funded indefinitely. Therefore, the funding period should be extended to five years with periodic oversight provided by a review panel of professionals in the field of education of the deaf.

Draft Recommendation 5: A five-year competitive funding cycle should be established with oversight provided by a peer review committee composed of professionals in the field of deaf education. The peer review process should be conducted every two-and-a-half years.

IV. Admission Policies at Gallaudet University and the National Technical Institute for the Deaf

At the time of passage of the Education of the Deaf Act in the House of Representatives, Representative Jeffords, one of the co-sponsors of the bill, requested that the Commission study and make a recommendation on admitting hearing students to Gallaudet University as well as foreign students to Gallaudet and the National Technical Institute for the Deaf.

A. Admittance of Hearing Students to Gallaudet University Undergraduate Programs and Cost Implications

Discussion: Gallaudet has admitted hearing students to its graduate programs since before the turn of the century. More recently, it has admitted hearing students to the associate degree program in interpreting. Since 1985, Gallaudet has allowed up to 8 percent of the undergraduate population to be hearing students. One of the admission policies require hearing applicants to demonstrate interest in a deafness-related career. At present, there are three hearing undergraduate students, pursuing baccalaureate degrees, who are enrolled as part-time students. Several other students have applied for admission for the fall of 1987; one has been accepted.

After careful deliberation, we propose that the policy of admitting hearing students should be discontinued. The basic rationale for this proposal is that deaf persons, whose educational needs are not being met and whose opportunities for a college education are limited, should be given priority over hearing persons. Although we considered the option of admitting hearing students who were willing to pay the full cost of the program, we acknowledged that this option was tantamount to saying that Gallaudet should not admit hearing students since the actual cost per deaf student at Gallaudet is about $25,000 per year. However, the cost of educating a hearing student can only be estimated and would be somewhat lower because the student might not require special services.

With the draft recommendation, we are requesting that Congress reaffirm Gallaudet University as an institution for persons who are deaf, at least at the undergraduate level, and that hearing persons who wish to make careers in deafness attend the graduate level programs at Gallaudet. We emphasize that the draft recommendation should not adversely affect any exchange or consortium programs between Gallaudet and other universities, nor should it affect the interpreter training programs where hearing students participate.

We should note that we did not have a consensus on this issue. Two Commission members believe that Gallaudet should be permitted to continue to admit hearing students to its undergraduate programs.

Draft Recommendation 6: Gallaudet University should not accept hearing students to its baccalaureate programs.

B. Cost Implications of Admitting Foreign Students to Gallaudet and the National Technical Institute for the Deaf

Discussion: Gallaudet University is permitted to admit foreign students and presently has about 200 foreign students. Rather than imposing a surcharge which covers the actual cost (tuition plus support and unigue services) of educating non-taxpaying foreign students, Gallaudet recently reduced its tuition surcharge for international students from 50 percent to 20 percent, which was approximately 20 percent of the total educational cost per deaf student. The remaining 80 percent continues to be subsidized by the Federal Government. NTID has thus far not been allowed to admit foreign students.

Several respondents recommended that the cost of education and related services for foreign students attending Gallaudet and NTID should not be subsidized by the Federal Government.

Although we saw some value in allowing this significant subsidy to foreign students, we felt that the need to provide additional federal funding to other areas of deaf education outweighed this consideration. According to a Department of Education estimate, the total federal subsidy for approximately 200 foreign students at Gallaudet in fiscal year 1985 amounted to approximately $3,800,000 or nearly $19,000 per student. (This figure is based on the additional 50% surcharge.)

A second concern centered around making sure that qualified deaf American students not be denied admittance resulting from deaf foreign student admission. We would expect that both institutions would establish guidelines to ensure that such a situation would never occur.

Draft Recommendation 7: Gallaudet University's policy of admitting foreign students should be continued. The National Technical Institute for the Deaf should be permitted to admit foreign students. However, the number of foreign students should be limited to 10% of the deaf student body. Tuition should be increased to the foreign students to cover 75% of the average per student cost at these institutions.

VI. The Role and Impact of Research, Development, Dissemination, and Outreach Activities at Gallaudet University and the National Technical Institute for the Deaf.

Discussion: We examined several related questions concerning the role and impact of research, development, dissemination and outreach activities conducted by Gallaudet University and the National Technical Institute for the Deaf. We will continue to investigate these issues at the next full Commission meeting in September as it relates to the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf. Additional recommendations on research will be drafted during that meeting.

We wish to emphasize that we have not attempted to evaluate the quality of research at Gallaudet and NTID; however, we have considered how research and development priorities should be established, whether there has been adequate oversight to ensure cost-effectiveness and quality, and whether research and development projects should be funded through Congressional appropriations, competitive grants, or both.

A. Funding of Research Projects

Discussion: Gallaudet and NTID are authorized by law to conduct research. Gallaudet receives both direct appropriation from Congress and federal grants, while NTID receives only direct appropriation. There is significant value in having extensive and high quality research programs at Gallaudet and NTID. We commend the valuable contribution to the field made by the Annual Survey of Hearing Impaired Children and Youth and we expressed interest in exploring ways in which the Survey might provide important data about specific groups, such as the rural student populace. However, we recognized that other research centers are also conducting a significant amount of research on deafness and deaf education. These centers would benefit from increased opportunities to compete for larger amounts of funding. Similarly, requiring Gallaudet and NTID to participate in more competition for funding could be expected to enhance the quality of Gallaudet's and NTID's research and development activities.

Our recommendations are intended to encourage competition, innovation, and diversity in research on deafness. We certainly do not recommend any reduction of funding for deafness-related research.

Draft Recommendation 8: Only a base level of Congressionally appropriated line-item funding should continue to be allocated to Gallaudet and NTID for research, development, and evaluation projects. Specifically, funding should be adequate to provide a robust research agenda which would include the Annual Survey of Hearing Impaired Children and Youth conducted by Gallaudet. An overall reduction in the current funding provided to these two institutions should be made and the remaining monies should then be set aside and used for competitive grants for deafness-related research. Any research center with adequate capacity in the field, including Gallaudet and NTID, could compete for the funds on a multi-year basis.

We welcome comments on how to set the "base level" for Gallaudet and NTID: one-third, one-half, two-thirds, or some other proportion of what Congress now appropriates to them for research. The current appropriation is approximately $3 million annually.

B. Setting Research Priorities

Discussion: Information received by the Commission indicated that Gallaudet and, to a lesser extent, NTID lack an oversight procedure for selecting, conducting, and monitoring research and development activities. Although these institutions set general research priorities, decisions on research projects occur within the organizations with little outside scrutiny. Developing a research plan for comment by consumers of products and by experts in the field, and utilizing a peer review system to aid Gallaudet and NTID in making their decisions, could be expected to result in research that is more relevant to the needs of the field and of higher quality.

Although we were asked to examine specific research priorities, we believe that such a task is beyond our ability to accomplish with the time and resources available. Therefore, we have concentrated on the process for setting priorities and selecting research agendas which should have long-term, positive dividends. A wealth of testimony has convinced us, however, that the acquisition of language by children who are deaf should be one of the top priorities for research.

Draft Recommendation 9: Gallaudet University and NTID should develop concrete research plans and provide them for public comment by consumers and researchers. The projects should then be selected in conjunction with a peer review process involving (principally) the best researchers in the field.

Draft Recommendation 10: The study of language acquisition in children who are deaf should be a primary consideration when setting research priorities.

C. Dissemination of Products and Outreach Activities

Discussion: In reviewing information supplied to the Commission, it was noted that some of the products and

outreach activities at Gallaudet tended to be promotional in nature and did not supply enough explanation about the products to allow educators to make informed decisions when purchasing the materials. In some cases, products could not be previewed before they were purchased. In addition, educators expressed the need for materials geared toward low-achieving students.

Draft Recommendation 11: Products and outreach activities from Gallaudet should be clearly customer oriented.

VII. Captioned Television

A. Closed captioning service

Discussion: 1. Brief history. In the early 1970s open-captioned programs became nationally available when the Caption Center at television station WGBH in Boston started to provide a few open-captioned programs to local stations affiliated with the Public Broadcasting Service (PBS). In 1981, the National Captioning Institute (NCI) was established with private and federal support to provide the captioning services to American Broadcasting Company (ABC), National Broadcasting Company (NBC), and the PBS. (At the time, the Columbia Broadcasting System, Inc. (CBS) declined participation and then agreed in 1984 to provide closed captioned programs using line 21 along with its teletext service.)

Due to the continued cooperative efforts among NCI, Congress, the Department of Education, the private sector and many others, the number of hours of captioned programming per week increased from only five hours in 1981 to nearly 150 hours today.

2. The Federal Communications Commission's (FCC) Efforts. Since 1970, the FCC has recognized the needs of persons with impaired hearing for television, and has continued its efforts to encourage licensees to make television accessible to them. In 1970, the FCC issued a public notice advising all licensees that television's capacity to "to alert, assist and entertain persons with impaired hearing" should be utilized to the "fullest extent."[8] The FCC explained that its public notice was "advisory in nature," but warned that mandatory requirements may be imposed if voluntary efforts are not satisfactory.[9] Six years later, the FCC issued a regulation requiring that all emergency announcements be broadcast visually.[10] In 1976, the FCC reserved line 21 of the television broadcast signal for transmitting "closed" captions, but did not impose mandatory requirements due to technological and economic factors.[11] Since that time, the FCC has continued to rely on voluntary initiatives rather than mandatory requirements to make television accessible to persons with impaired hearing.[12] In short, except with respect to emergency announcements, the FCC has not imposed any minimum requirements upon licensees to make their programming close captioned.

3. Ongoing federal funds for captioned services. The Department of Education has provided funds for the captioning of news, public affairs, and some prime time commercial network movies and television series. The commercial networks themselves pay for the captioning of some of their prime time programs as do various program producers, advertisers, foundations and viewers who contribute to NCI's Caption Club. ABC is the leading funder. The Corporation for Public Broadcasting and the public TV stations jointly share the cost of captioning numerous broadcast public TV programs. In the pay cable TV area, Showtime, Home Box Office and the Disney Channel cover part of the cost of captioning their programs. Many of the home video distributors, (*e.g.*, CBS/Fox and RCA Columbia) have their major movie releases captioned by NCI.

Federal funding provides about 40% of the support for closed-captioned television. The networks provide another 30% and corporate advertisers, foundations, and contributions account for the remaining 30%. For this fiscal year, the Department of Education provided to NCI funds of $5 million with $1 million earmarked specifically for children's programs.

4. Issues. With respect to captioned services, we find two major issues of concern: first, the cost of captioned services; and second, adverse effects of federal subsidies for captioned services upon providers who do not receive them.

The efforts on the part of the Federal Government including the Department of Education, commercial and public broadcasters, as well as NCI and others, deserve commendation for the increase in the number of hours of captioned programs.

One consumer, however, expressed dissatisfaction that the cost of captioning service has been picked up on an ad hoc, rather than a systematic basis:

> Simply stated, there is no mechanism today that has an iron-clad guarantee that the deaf person can access TV, because the costs are garnered through a process of both negotiation and charitable pursuits. Every year, the networks review their budgets and determine the allocation of their share of captioning (the formula varies among the three major networks: ABC, CBS and NBC). The Public Broadcasting Service also makes an annual determination. The U.S. government's allocation is determined through annual budget reviews in Congress. In addition, the major captioning service providers, the National Captioning Institute and the Caption Center has to approach, from time to time, the advertisers, the business community, the TV producers and in certain cases, the deaf community to "plead" for support in order to foot the bill to caption programs. In this case, the deaf person is again treated on an inequitable basis when compared to his hearing neighbor who does not have to plead for support from the networks, the U.S. Congress, the advertisers and all those parties identified above to allow him to have sound on his TV. Why should the deaf people of America be subject to the whims and wherefores of the various resources that he has very little control of, while his hearing neighbor does not need to be subjected to those.

We propose that certain broadcasters should assume responsibility for making their programming closed captioned without relying on federal subsidies. It should be noted that with improved technology, the cost of captioning can be reduced from the current rate of $2,500 per hour of programming to $1,000 or even less. While we recognize the continuing need for federal subsidies for captioned services, we believe that these subsidies would be better invested if they were used to assist broadcasters, especially those with low budgets, to develop technically and financially feasible means of captioning their programs.

We are, however, concerned that current priorities in and uses of federal funds should not be changed, especially in the absence of a duty by the FCC imposed upon broadcasters to maintain or increase current number of hours of their captioned programs.

Unless the FCC defines duties of broadcasters to make their programming captioned, we consider a legislative recommendation to require the FCC to do so. In the rulemaking process to implement the TV captioned programming requirement, the FCC would consider the costs and benefits to all television viewers, including persons with and without impaired hearing. It is our intent that the implementing regulation should be developed so as to encourage the use of current available captioned technology without discouraging or impairing the

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[8] 26 F.C.C. 2d 917 (1970).

[9] *Id.* at 918–19.

[10] 61 F.C.C. 2d 18 (1976), *reconsid.*, 62 F.C.C. 2d 565 (1977).

[11] 63 F.C.C. 2d 378 (1976).

[12] 46 FR 60851 (1981).

development of new or improved technology. We are also considering that Congress require that broadcasting of government proceedings, including House and Senate floor activity, be captioned.

Draft Recommendation 12: Congress should enact legislation to mandate the Federal Communications Commission to issue regulations as it deems necessary to require that broadcasting licensees caption their programming.

Draft Recommendation 13: Congress should require that broadcasting of government proceedings, including House and Senate floor activity, be captioned.

The number of closed captioning vendors seems to be increasing. Prices among captioning vendors varies from $1,050 to $2,500 per hour. One closed-captioning company complained that the present federal process discourages competition among the vendors. It stated that with federal subsidies, corporate contributions, and other donations, one vendor has been able to reduce its charges to producers. The process places the other vendors at a disadvantage despite the fact that their fees may be less than the federally subsidized vendor's.

To ensure fair and equal competition among the closed captioning companies, we propose that the Department of Education review and revise its funding mechanism.

Draft Recommendation 14: The Department of Education should revise its funding mechanism in the area of closed captioning to ensure fair and equal competition among closed captioning companies without jeopardizing quality, captioning services.

B. Decoders

Discussion: In order to make captions visible on a television set, one has to purchase a separate decoder, (Telecaption II) costing about $200 (or $160 with federal subsidy), or use an earlier-generation decoder.

In 1980, Sears Roebuck and Company contracted with the federal government to manufacture and sell the Sears TV with a built-in decoder and an external decoder (TeleCaption I). The Telecaption I units were sold at $260.00. It was projected that at least 100,000 decoders would be sold each year to television viewers.

Unfortunately, for a variety of reasons, decoder sales did not come close to projections. One of the reasons was that when the decoders first came out, only 10–14 hours of closed captioned programs were available per week, and people were hesitant to purchase a unit at a high cost of $260.00. Then NCI developed a more modern unit (TeleCaption II) without outside funding assistance, but obtained a federal subsidy for the unit such that it retailed for less than $200.00, and, in some instances, for as low as $160.00. After the introduction of TeleCaption II, the national audience for the closed captioned service increased to at least 500,000 people in approximately 140,000 homes.

Currently, the Department of Education has made available $1,500,000 for decoder subsidies ($30 per unit for 50,000 units). Congress has appropriated $500,000 for development of a lower priced decoder (the third-generation decoder). Since Sears stopped manufacturing televisions with a built-in decoder in the early 1980s, virtually no TV manufacturer has offered a captioning decoder as a standard feature on any model.

According to NCI, the future of the closed captioned television service is "inextricably tied to the number of households who access it," and in order to eliminate the need for ongoing federal funds and to make the captioned service economically viable and self-sustaining, the service must reach into at least 500,000 homes and ideally 1,000,000 homes by 1990.

Several organizations and consumers stated that one of the impediments to the goal of viable and self-sustaining captioned service is the additional cost of purchasing an external decoding adaptor to use with the television set. Even with a federal subsidy, the unit cost of today's decoders remain expensive to a large number of persons, especially low-income individuals and families. One national organization, along with other respondents, pushed for a recommendation to require that decoder chips be placed into new television sets as standard equipment. They explained that adding a built-in decoder to a television would add a minimal cost due to large scale distribution to expanded markets. At the same time, this action would benefit millions of viewers including those with English as a second language.

We find that to reduce the long-term need for federal subsidies for decoder development and manufacture, as well as to increase the number of households with decoders, TV manufacturers should be required to incorporate a decoder chip into new television sets as standard equipment. In doing so, we are considering a legislative recommendation to amend the Communications Act to require the FCC to establish and implement the requirement of accessibility of new TV sets marketed in the United States. Also, we view current federal subsidies for the design, development, and manufacturing of new lower cost decoders as a delay in achieving these goals. Thus, we consider that these funds may be better invested by distributing current decoders to persons with impaired hearing at no cost.

Draft Recommendation 15: Congress should enact legislation to require the Federal Communications Commission to issue rules as it deems necessary to make most new television sets capable of decoding closed captions.

Draft Recommendation 16: Until such television sets become widely available, federal funds for decoder development and manufacturing should be made available to provide free decoders to persons who are deaf.

C. Research on the Effects of Captioning

Discussion: We discussed the extensive and diverse impact closed captioning would have in the United States, not only for persons with impaired hearing, but also for elderly people and for persons who are learning English as their second language.

We find a critical need for additional research in the areas of TV captioning as it relates to speech recognition and illiteracy among persons who are deaf.

Draft Recommendation 17: Federal funds should be provided for research on speech recognition and captioning for use in educational settings.

Draft Recommendation 18: Federal funds should be provided for research on the impact of captioning on illiteracy among persons who are deaf.

Records of the comments received will be available for public inspection at the office of the Commission on Education of the Deaf, GSA Regional Office Building, Room 6646, 7th and D Streets, SW., Washington, D.C.

Frank G. Bowe,

Chairperson, Commission on Education of the Deaf.

August 24, 1987.

[FR Doc. 87–19731 Filed 8–27–87; 8:45 am]

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Part V

Department of the Interior

National Park Service

36 CFR Part 79

Curation of Federally-Owned and Administered Archeological Collections; Proposed Rule

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 79

Curation of Federally-Owned and Administered Archeological Collections

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Historic Preservation Act of 1966 (as amended) and the Archaeological Resources Protection Act of 1979 both direct the Secretary of the Interior to issue regulations for the curation and exchange of prehistoric and historic archeological collections recovered under certain Federal statutes. This proposed rule establishes standards and guidelines to be followed by Federal agencies to preserve material remains and associated records recovered in conjunction with Federal projects and programs. This action should ensure that those collections are deposited in repositories with adequate long-term curatorial capabilities.

DATES: Comments must be received on or before October 27, 1987.

ADDRESSES: Comments on this proposed rule should be addressed to Dr. Bennie C. Keel, Departmental Consulting Archeologist, National Park Service, Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127, or delivered to Room 4127C, 1100 L Street, NW., Washington, DC, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Michele C. Aubry, Office of the Departmental Consulting Archeologist, National Park Service, at (202) 343–1879 or FTS 343–1879.

SUPPLEMENTARY INFORMATION:

Background

Authority. This proposed rule is being issued under the authority of section 101(a)(7)(A) of the National Historic Preservation Act (16 U.S.C. 470 *et seq.*) and section 5 of the Archaeological Resources Protection Act (16 U.S.C. 470*aa–ll*). Both statutes direct the Secretary of the Department of the Interior to issue regulations ensuring that significant archeological artifacts and associated records recovered under the authorities of section 110 of the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), the Archeological and Historic Preservation Act[1] (16 U.S.C. 469–469*c*), the Antiquities Act (16 U.S.C. 431–433) and the Archaeological Resources Protection Act (16 U.S.C. 470*aa-11*) are deposited in an institution with adequate long-term curatorial capability. They also direct the Secretary to address the exchange of collections between suitable universities, museums or other scientific or educational institutions, and to ensure that the disposition of collections recovered from Indian lands are subject to the consent of the Indian or Indian tribe that owns or has jurisdiction over the said lands.

Applicability. Federal agencies are required by law to consider the effects of their projects and programs on the natural and cultural environment. During the planning phase of a project, most Federal agencies conduct surveys of project lands to identify and evaluate significant historic and archeological properties that may be impacted by the project. After these impacts have been considered, agencies ordinarily conduct some sort of data recovery at significant properties that cannot be avoided by the project.

The majority of federally funded or authorized archeological studies are conducted in connection with a Federal undertaking on public (Federal) lands. They usually are conducted either by Federal employees or by non-Federal personnel under a permit or contract with the agency. The material remains and associated records (referred to herein as archeological collections) generated by those studies generally belong to the United States Government and are held by the Federal land managing agency that has jurisdiction over the said lands. This proposed rule establishes standards and guidelines to be followed by Federal agencies to ensure that those collections are deposited in repositories that have the capability to adequately care for and maintain the collections.

Other federally funded or authorized archeological studies are conducted in connection with a Federal undertaking on Indian lands, State or local lands, or privately owned lands. They usually are conducted by non-Federal personnel under a contract with the agency. The archeological collections generated by those studies generally belong to the individual Indian or Indian tribe, State or local agency, or person or institution that owns or has jurisdiction over the said lands.

This proposed rule does not apply to those collections that are not in the possession of Federal agencies. However, the rule does require Federal agencies to retain copies of records that document the federally funded or authorized survey, testing and data recovery activities. This rule does apply if a non-Federal collection is donated or transferred to a Federal agency or if a non-Federal collection is being cared for and maintained (administered) by a Federal agency on behalf of the non-Federal owner.

Prior to initiating archeological studies on lands other than Federal lands, Federal agencies should consult with the respective landowner regarding the disposition of the archeological collection. If the landowner is unable or unwilling to properly care for the collection, then the Federal agency should request that the owner donate or otherwise transfer the collection to a Federal, State or local Government agency, or a museum or other educational institution or organization for preservation. Title to donated materials should be free and clear, without restrictions as to use or future disposition.

An owner who donates artifacts and other materials may be eligible for tax deductions authorized under various Federal and State laws and regulations. Donors should consult with a tax attorney and the Internal Revenue Service regarding their eligiblity for a charitable donation. An owner also may enter into agreements with an agency, museum or other educational institution or organization to care for and maintain the collection on behalf of the owner.

Unless otherwise negotiated with non-Federal owners, archeological collections recovered from non-Federal lands generally are returned to the landowner following necessary analyses. Since there may not be another opportunity for scientists to examine the collection, the Federal Agency Official should ensure that the study, analysis and report are completed satisfactorily prior to relinquishing the collection to the owner. The Federal Agency Official also should ensure that the research questions addressed in the study and analysis are pertinent to the significance of the archeological property.

[1] The Archeological and Historic Preservation Act (Pub. L. 93–291, May 24, 1974) amended the Reservoir Salvage Act (Pub. L. 86–523, June 27, 1960). It was further amended by Pub. L. 95–625 (Nov. 10, 1978). The Archeological and Historic Preservation Act sometimes is referred to as the Archeological Recovery Act or the Moss-Bennett Act. Both titles are merely descriptive names, and are not official short titles. The Archeological and Historic Preservation Act has no official short title. The Archeological and Historic Preservation Act, rather than the Reservoir Salvage Act, is being cited in this proposed rule because its amendments expanded the application of the Reservoir Salvage Act beyond Federal reservoir projects to include any Federal construction project or federally licensed or funded activity or program.

Capability requirements. Section 79.5 of this proposed rule sets forth what the Department of the Interior believes should be the minimum capability requirements for repositories that house and maintain archeological collections that are owned or administered by Federal agencies.

Most Federal agencies that conduct or authorize archeological projects already provide for some sort of long-term care and maintenance of the resulting collections. The majority of repositories used are Federal and State facilities and museums and departments of anthropology affiliated with State universities. In addition, a smaller number of privately-owned and operated, nonprofit institutions of higher learning and museums house federally-owned or administered collections.

Many of those repositories have invested considerable time and money to develop facilities and formal curation policies and operating procedures that enable them to adequately care for and maintain archeological collections. Prior to preparing this proposed rule, the Department of the Interior examined policy and procedural documents issued by a number of Federal, State and private repositories.

Although some repositories already meet the minimum capability requirements set forth in this proposed rule, many do not, including some Federal repositories. This is to be expected given that, until now, repositories have had to rely on a variety of disparate standards, guidelines and manuals issued by a number of Federal and State agencies and private institutions.

Federal agencies should not expect those repositories that do not meet the minimum capability requirements to be able to correct problems overnight, especially in light of fiscal constraints we all often operate under. Federal agencies should work with those repositories that currently house collections under each agency's jurisdiction to make a concerted, systematic effort toward eliminating any deficiencies over a period of several years. For example, if a repository does not have the capability to adequately conserve an agency's collections, the agency and the repository should explore options for obtaining that capability. If a repository's facilities are inadequate to care for an agency's collections, the repository might apply for grant funds from the Institute of Museum Services to modernize its facilities.

The Institute of Museum Services is an independent Federal agency that awards grants to support the efforts of museums to conserve the Nation's historic, scientific, and cultural heritage; to maintain and expand their educational role; and to ease the financial burden borne by museums as a result of their increasing use by the public. Many other Federal agencies and private foundations also award grants and provide training to museums for research, conservation, and collections care and maintenance. Many private firms and individuals also have provided funds to museums.

Implementation. Since the enactment of the Antiquities Act (16 U.S.C. 431–433) in 1906, millions of Federal dollars have been, and continue to be, spent under that Act, the Archeological Resources Protection Act (16 U.S.C 470*aa-11*), section 110 of the National Historic Preservation Act (16 U.S.C. 470 *et seq.*) and the Archeological and Historic Preservation Act (16 U.S.C. 469–469*c*) to identify, evaluate and recover important archeological, historic, cultural and scientific data and material remains. The thousands of collections generated by those studies are invaluable resources for scientists, scholars, educators and the public, as well as Federal, State and local Government agencies. The vast majority of the collections are the property of the United States Government and are maintained by Federal agencies for the benefit of the public. Some of the collections are not federally-owned, but are administered by Federal agencies on behalf of the non-Federal owners. This regulation applies to all federally-owned and administered archeological collections recovered under the cited laws.

As discussed above, some repositories that currently house and maintain federally-owned or administered collections do not meet the minimum capability requirements set forth in this proposed regulation. Each Federal agency should examine repositories, including its own repositories, that house and maintain collections generated from studies conducted from 1906 to the present, and determine if those repositories meet the minimum capability requirements set forth in this regulation. If not, the agency should work with those repositories in developing plans to eliminate the deficiencies within a reasonable amount of time. If a repository is unable to substantially comply with the minimum capability requirements within the agreed upon time, then the Federal agency should remove its collections from the repository, and deposit the collections in another repository that is able to meet the minimum capability requirements.

Religious and sacred objects. This proposed regulation takes into consideration provisions of the American Indian Religious Freedom Act (42 U.S.C. 1996) and the First Amendment to the United States Constitution by establishing guidelines for access to, loan and use of reasonably acknowledged religious and sacred objects contained in archeological collections by qualified persons in religious and spiritual ceremonies and rituals. The Department of the Interior recognizes that many, if not most, religious and sacred objects housed in repositories are ethnological in nature, having been collected during historic times by researchers and explorers who were studying specific, living indigenous and immigrant populations. This proposed rule does not apply to those collections. This rule applies only to objects contained in archeological collections.

It usually is not difficult to ascertain the sacredness or religious nature of objects that were used during historic times by ethnic, social and religious groups, especially if a contemporary group can demonstrate that the group has historic ties to the earlier group that used the archeologically recovered objects. This proposed rule provides for access and use of those objects.

It is difficult to ascertain the sacredness or religious nature of objects that were used during prehistoric times. Modern day American Indian tribes are separated from those prehistoric cultures by a hiatus of hundreds if not thousands of years during which time the objects have been buried. The function of artifacts, including those that are thought to be sacred or religious objects, frequently is based upon conjecture rather than fact by using modern day analogues and studying wear patterns on the objects themselves. Nevertheless, there may be instances when a contemporary Indian tribe or other Native American group can demonstrate that the group is directly descendant from the earlier prehistoric cultural group that used the archeologically recovered objects. This proposed rule also provides for access and use of those objects.

Human remains. The Archaeological Resources Protection Act (16 U.S.C. 470*aa–ll*) and its final uniform rules (43 CFR Part 7,36 CFR Part 296, 18 CFR Part 1312, 32 CFR Part 229) define archeological resources to include human remains. This proposed regulation adopts that definition.

This regulation does not address the question of whether human remains uncovered in an archeological context

should be left *in situ* or excavated and either reburied or stored in a repository. That determination should be made by each Federal Agency Official in accordance with the respective agency's policies, guidelines and procedures on the disposition of human remains recovered from archeological contexts. If the Federal Agency Official determines that the human remains should be excavated and stored in a curatorial facility, then this rule would apply.

Contracts and agreements. Section 79.7 of this proposed rule provides guidance for Federal agencies on entering into contracts and agreements with repositories and other parties. Appendices A and B to this rule are examples of how a short-term loan agreement and a memorandum of understanding for long-term curatorial services might be written. They should be revised according to the nature and content of each collection, and according to the type of legal instrument being entered into. For example, all contracts would have to include general provisions required under the Federal Acquisition Regulations (Title 48 of the Code of Federal Regulations). In addition, Federal agencies should be cognizant of the fact that many repositories have developed standard agreement such as for loaning artifacts on a short-term basis. If those agreements are consistent with the intent of this proposed regulation, they should be used in lieu of developing new ones.

Federal Agency Officials should consider curatorial needs early during project planning, pior to authorizing any surface collection, subsurface testing or excavation of archeological resources. For example, prior to issuing any permit under the Archaeological Resources Protection Act (16 U.S.C. 470*aa–ll*) and its uniform regulations (43 CFR Part 7; 36 CFR Part 296; 18 CFR Part 1312; 32 CFR Part 229), each Federal land manager must specify the repository in which any collected material remains and associated records must be deposited.

Federal Agency Officials should instruct agency archeologists and non-Federal archeologists under permit or contract to consult with curators and collections managers from the specified repository regarding procedures for cleaning, labeling, cataloging, documenting and packaging the collection prior to being deposited in the repository. They also should consult with conservators regarding the conservation of material remains that may be recovered in the field so that the materials will be handled in the field in a manner that will maintain their integrity prior to being deposited in the repository.

Federal Agency Officials should ensure that archeological contractors, permittees and agency archeologists adequately documents, clean and stabilize collections prior to depositing them in repositories. Federal Agency Officials also should review research designs that call for the removal or recovery of material remains during any survey, subsurface testing or excavation of archeological resources to ensure that the amount of redundant data collected is reduced.

Disposition. Given that archeological collections excavated or removed from public lands generally are the property of the United States Government, agencies must comply with the Federal Property and Administrative Services Act (40 U.S.C. 484), its implementing regulation (41 CFR Part 101) and any agency-specific supplemental regulations, policies and procedures on the management of Federal property. Section 79.8 of this proposed rule sets forth guidance and describes a variety of methods by which a Federal agency can ensure that a collection is adequately cared for and maintained. For example, an agency may place a collection in one of its own repositories, place curatorial requirements in permits or contracts, enter into agreements with Federal and non-Federal repositories, enter into contracts and purchase orders with non-Federal repositories, and transfer a collection to another Federal agency.

An agency also may transfer a collection to certain non-Federal agencies or educational institutions or organizations by following the procedures set forth in 41 CFR Part 101–44. The rule enables Federal agencies to donate personal property to State and local agencies, Indian tribes, and nonprofit, tax-exempt educational institutions or organizations such as colleges, universities and museums attended by the public. The rule specifies that donations must be for authorized public purposes such as conservation, education, parks and recreation. The rule also requires that the General Services Administration approve both the donation and the recipient agency, tribe, institution or organization.

Some Federal agencies may have additional legal authorities regarding disposal of museum objects. For example, the Management of Museum Properties Act of 1955 (16 U.S.C. 18f) authorizes the National Park Service to exchange museum property under its administrative jurisdiction that is no longer needed or that may be held in duplicate. Federal Agency Officials should consult with property management officials within their respective agencies regarding any agency-specific authorities and requirements regarding the management of museum objects.

Periodic inspections. As noted above, archeological collections excavated or removed from public lands generally are the property of the United States Government. Government property must be inspected and inventoried in accordance with the Federal Property and Administrative Services Act (40 U.S.C. 484), its implementing regulation (41 CFR Part 101) and any agency-specific supplemental regulations, policies and procedures. For property management purposes, the Federal Agency Official should maintain a catalog list of the contents of each collection deposited in the repository and a list of any Government-owned personal property such as a specimen cabinet or exhibit case that is furnished to the repository as a part of the curatorial services agreement or contract. In addition, the repository should maintain complete and accurate records on loans and other uses of each collection.

After depositing a collection in a repository, the Federal agency is not absolved of its responsibility to ensure that the collection and any Government-furnished personal property in the possession of the repository are adequately maintained and accounted for. Proper care requires that the repository periodically inspect its facilities for monitoring the physical security and environmental control measures. In addition, it requires that the repository periodically inspect and inventory the collection for assessing its condition and verifying its location. It also requires that the repository annually inventory any Government-furnished personal property that is in its possession.

Section 79.9 of this proposed rule sets forth procedures and guidance for repositories and Federal agencies for conducting routine, periodic inspections of facilities, inventories of collections and any Government-furnished personal property, and investigating reports of lost, stolen, damaged or destroyed Government property. It also sets forth procedures and guidance for Federal agencies for conducting periodic inspections of repositories to determine whether the repositories still meet the minimum capability requirements set forth in § 79.5 of this proposed rule and

to evaluate the performance of repositories in properly managing collections.

In those instances where a repository is housing and caring for several collections that are owned or administered by several Federal agencies, it would be more cost-effective and a more efficient use of personnel to coordinate, to the extent possible, inspections and inventories. Recognizing that schedules for inspections and inventories are based on the nature and content of each collection, the pertinent Federal Agency Officials should direct the repository to coordinate, as much as possible, the periodic inspections and inventories conducted by the repository's staff. In addition, the Federal Agency Officials should cooperate amongst themselves, to the extent permitted by law, by designating one or more qualified agency professionals to conduct inspections on behalf of the other agencies, and prepare and distribute to each Federal Agency Official a written report of findings and recommendations to correct or resolve any problems identified.

The precedent for coordinating inspections and assigning one agency the responsibility for conducting inspections on behalf of other agencies is in the Single Audit Act (31 U.S.C. 75), which was enacted in 1984. Prior to that time, Federal grants were audited individually. Studies by the General Accounting Office and the Joint Financial Management Improvement Program found that auditing individual grants was an ineffective use of audit resources. In 1979, the Office of Management and Budget changed the audit focus from individual grants to grant recipients. However, most Federal agencies still conducted their own audits. The result was that recipients of grants from more than one Federal agency were audited by several agencies.

The Single Audit Act (31 U.S.C. 75) was enacted to authorize Federal agencies to designate one Federal agency as a "cognizant agency" that was then assigned the responsibility for coordinating audits of State and local agencies that receive Federal funds. The result was that the number of audits conducted by Federal agencies was reduced. To the extent permitted by law, Federal agencies should adopt a similar approach for coordinating inspections and inventories of federally-owned and administered archeological collections.

Staff Professional Qualifications. It is essential that federally-owned and administered archeological collections be cared for and maintained by suitably qualified key professional personnel such as curators, collections managers, conservators, archivists, archeologists and historians. Basic minimum qualifications for the types of personnel who most often serve in entry level professional positions, equivalent to the GS–9, in repositories are available from the Office of Personnel Management. For mid-level or senior level professional positions, equivalent to the GS–11 to GS–15, personnel should have additional experience, training or education, such as that required for membership as a fellow conservator in the American Institute for Conservation or for certification as an archeologist with museological emphasis by the Society of Professional Archeologists. The additional experience, training or education should be commensurate with the duties and responsibilities of the position.

This proposed regulation requires that federally-owned and administered archeological collections be cared for and maintained by individuals whose expertise is appropriate to the particular material remains and associated records, and who meet pertinent professional qualifications. Those individuals may be employees of the repository or consultants who advise repository staff who do not meet the minimum professional qualifications. In instances where a repository assigns curatorial duties to a technician or aid who does not possess the minimum qualifications, the person should be supervised or otherwise directed by another person who does possess the appropriate minimum professional qualifications. For example, a technician in a national park or wildlife refuge should receive direction from appropriate personnel such as a curator or a collections manager who is duty stationed in a regional office or archeological center.

A Federal agency that maintains collections using its own employess should ensure that the pertinent professional qualifications are possessed by its employess in a manner consistent with applicable Office of Personnel Management requirements. Individuals who inspect and inventory collections also should meet pertinent professional qualifications appropriate to the nature and content of the particular collections.

Funding. Section 79.10 of the proposed rule describes a variety of methods used by Federal agencies to ensure that sufficient funds are available for curatorial services. The proposed rule does not recommend any one method over another. It also does not recommend methods or mathematical formulas for calculating or estimating costs for curatorial services since they will vary from repository to repository.

Many repositories have developed standard fee schedules for calculating both the initial processing of a collection into the repository and the long-term curation of a collection. Some repositories may charge fees annually or for a specified number of years, subject to renewal, while others may charge a single fee for storage *in perpetuity*, usually meaning the life of the repository. Other repositories may house collections at no charge as a condition of a permit or grant, or as a public service since they would then possess the collection for study by researchers employed at the repository.

Preparation of the Rulemaking

On October 11, 1985, the National Park Service published a notice of intent to propose rulemaking and a request for comments in the **Federal Register** (50 FR 41527). The notice identified major topics being considered and requested public comments and suggestions on the proposed rulemaking and topics. In addition, the notice requested public comments on the environmental impact and the economic impact, including the impact to small entities (small businesses, organizations and governmental jurisdictions) of the suggested regulation.

Thirty-seven comments were received in response to the notice. Of those, 10 were from museums and departments of anthropology affiliated with State universities; 9 were from State agencies; 8 were from Federal agencies; 3 were from professional museum and archeological organizations; 2 were from private, nonprofit museums; and 1 each were from a museum affiliated with a private university, a Native American organization, a public utility, an archeological contracting firm, and an individual. All of the commenters were supportive of the proposed regulation and the topics identified.

The National Park Service drafted the proposed regulation and distributed it for comment on September 26, 1986, to all Federal Historic Preservtion Officers, State Historic Preservation Officers, Federal Agency Chief Archeologists, State Archeologists, national professional archeological and museum organizations, national Native American organizations, all repositories listed in the American Anthropological Association's "Guide to Departments of Anthropology, 1985–86," and all repositories holding permits issued in 1984 and 1985 under the Archaeological

Resources Protection Act (16 U.S.C. 470*aa–ll*).

Fifty-six comments were received, including 18 from Federal agencies, 15 from State agencies, 5 from professional societies, 5 from private, nonprofit museums, 7 from museums and departments of anthropology affiliated with State universities, 3 from Native American organizations, and 1 each from a local Government agency, an archeological contracting firm, and an individual.

All comments were considered in revising the draft for publication as a proposed rule. Valid concerns were addressed to the extent of the National Park Service's legal authorities. Some suggestions were not included because they were either beyond the scope of this regulation or inconsistent with Federal historic preservation and property management statutes and regulations. Some comments pointed out vague and unclear language so clarifying and explanatory language was added to the rule and the preamble.

The National Park Service seeks comments and suggestions from Federal, State and local agencies, museums, professional organizations, Native American and other social and ethnic groups, and the public on this proposed rule. In your comments, refer to the appropriate section and paragraph and, if possible, offer suggested regulatory language that would effectively implement the changes you desire.

Drafting Information

The author of this rulemaking is Michele C. Aubry, Archeological Program Specialist, in the Office of the Departmental Consulting Archeologist, National Park Service, Washington, DC.

Compliance with Executive Order 12291 and the Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Compliance with the Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance with the National Environmental Policy Act

Federal agencies who conduct or authorize archeological investigations are required by law to care for and maintain the resulting collections of artifacts, specimens and associated records. Issuance of this document will result in more consistent, systematic and professional care of those collections. The National Park Service has determined that this rulemaking will not have a significant effect on the quality of the human environment under the National Environmental Policy Act (42 U.S.C. 4321–4347). In addition, the National Park Service has determined that this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act by Departmental regulations in 516 DM 2. As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects in 36 CFR Part 79

Archeology, Archives and rcords, Historic preservation, Indians-lands, Museums, Public lands.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

Dated: June 1, 1987.

For the reasons set forth in the preamble, the Department of the Interior proposes to amend Title 36, Chapter I of the Code of Federal Regulations by adding a new Part 79 as follows:

PART 79—CURATION OF FEDERALLY OWNED AND ADMINISTERED ARCHEOLOGICAL COLLECTIONS

Sec.

Authority: 16 U.S.C. 470*aa–ll*, 16 U.S.C. 470 *et seq.*

§ 79.1 Purpose.

(a) The regulations in this part establish definitions, standards and guidelines to be followed by Federal agencies in preserving federally-owned and administered collections of prehistoric and historic material remains and associated records recovered under the authority of the Antiquities Act (16 U.S.C. 431–433), the Archeological and Historic Preservation Act (16 U.S.C. 469–469*c*), section 110 of the National Historic Preservation Act (16 U.S.C. 470 *et seq.*) or the Archeological Resources Protection Act (16 U.S.C. 470*aa–ll*). They establish:

(1) Minimum standards for repositories that provide long-term curatorial services;

(2) Guidelines for Federal agencies for entering into contracts and agreements with repositories and other parties for the care and management of collections;

(3) Guidelines for access to, loan of and use of collections; and

(4) Guidelines for the exchange and ultimate disposition of collections.

(b) The regulations in this part contain two appendices that provide additional guidance for use by the Federal Agency Official.

(1) Appendix A to these regulations contains an example of an agreement between a repository and a third party for a short-term loan of a collection or a part of it.

(2) Appendix B to these regulations contains an example of a memorandum of understanding between a Federal agency and a repository for long-term curatorial services.

(3) Appendices A and B are meant to illustrate how two agreements might appear. They should be revised according to the nature and content of each collection or group of collections, and according to the type of agreement, memorandum, contract or other legal instrument being used.

§ 79.2 Authority.

(a) The regulations in this part are promulgated pursuant to section 101(a)(7)(A) of the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), which requires that the Secretary of the Interior issue regulations ensuring that significant prehistoric and historic artifacts and associated records recovered under the authority of section 110 of that Act, the Archeological and Historic Preservation Act (16 U.S.C. 469–469*c*) and the Archaeological Resources Protection Act (16 U.S.C. 470*aa–ll*) are deposited in an institution with adequate long-term curatorial capabilities.

(b) In addition, the regulations in this part are promulgated pursuant to section 5 of the Archaeological Resources Protection Act (16 U.S.C. 470*aa–ll*), which gives the Secretary of the Interior discretionary authority to promulgate regulations for the (1) exchange, where appropriate, of archeological resources recovered from public and Indian lands under that Act and (2) ultimate disposition of archeological resources recovered under that Act, the Antiquities Act (16 U.S.C. 431–433) and

the Archeological and Historic Preservation Act (16 U.S.C. 469–469*c*). Section 5 states that the exchange be between suitable universities, museums or other scientific or educational institutions. It further states that any exchange or ultimate disposition of resources excavated or removed from Indian lands shall be subject to the consent of the Indian or Indian tribe that owns or has jurisdiction over such lands.

§ 79.3 Applicability.

(a) The regulations in this part apply to collections, as defined in § 79.4 of this part, recovered or removed under the authority of the Antiquities Act (16 U.S.C. 431–433), the Archeological and Historic Preservation Act (16 U.S.C. 469–469*c*), section 110 of the National Historic Preservation Act (16 U.S.C. 470 *et seq.*) or the Archeological Resources Protection Act (16 U.S.C. 470*aa–ll*) that are federally-owned or are being administered by Federal agencies on behalf of non-Federal owners.

(b) Material remains recovered from archeological resources generally are the property of the respective landowner. Unless a non-Federal owner has donated or otherwise transferred title of material remains to the United States Government, or has entered into an agreement with a Federal agency for the agency to care for and maintain the remains, the regulations in this part do not apply to material remains and associated records recovered from archeological resources located on lands other than public lands. However, the Federal agency must retain copies of associated records that document the federally authorized excavation or removal of the archeological resources.

§ 79.4 Definitions.

As used for purposes of this part:

(a) "Archeological resource" means any surface, subsurface or submerged location such as a site, building, structure, shipwreck, cave, rockshelter, midden or feature which contains material remains of prehistoric and historic human life or activities that are at least 100 years of age and are of archeological interests.

(1) "Of archeological interest" means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation and explanation.

(2) "Material remains" means physical evidence of prehistoric and historic human habitation, occupation, use, or activity. Classes of material remains (and illustrative examples) include, but are not limited to:

(i) Whole or fragmentary pieces of prehistoric and historic structures and features such as houses, mills, piers, fortifications, raceways, earthworks and mounds.

(ii) Whole or fragmentary prehistoric and historic artifacts of human manufacture and natural objects used by humans such as tools, weapons, porcelain, basketry, rock crystals, feathers and pigments;

(iii) Prehistoric and historic by-products, waste products or debris resulting from manufacture or use of man-made or natural materials such as slag, dumps, cores and debitage.

(iv) Prehistoric and historic organic material such as vegetable and animal remains and coprolites;

(v) Prehistoric and historic human remains such as bone, teeth, mummified flesh, burials and cremations;

(vi) Whole or fragmentary pieces of petroglyphs, pictographs, intaglios and other works of artistic or symbolic representation;

(vii) Whole or fragmentary pieces of shipwrecks such as pieces of the ship's hull, rigging, armaments, apparel, tackle, contents and cargo; and

(viii) Environmental specimens such as pollen, soil, burnt clay and tree core samples.

(b) "Collection" means material remains recovered from a prehistoric or historic archeological resources as well as associated records documenting the resource.

(1) "Associated records" means any records that were generated or copied during the course of federally authorized archeological work to document a prehistoric or historic archeological resource. Some records such as field notes, artifact inventories or oral histories may be originals that were generated as a result of the archeological field work, analysis and report preparation while others such as deeds, survey plats, historical maps or diaries may be copies of original public or archival documents that were studied and duplicated as a result of historical research in connection with the federally authorized work. Classes of associated records (and illustrative examples) include, but are not limited to:

(i) Records relating to the survey, testing, excavation, recording and analysis of a resource such as site forms, field notes, drawings, maps, photographs, slides and negatives, films, video and audio cassette tapes, oral histories, artifact inventories, laboratory reports, computer cards, tapes, disks, diskettes and printouts, antiquities permits, reports, and accession, catalog and inventory records;

(ii) Records relating to the identification of a resource using remote sensing data such as aerial and satellite photographs and images, magnetometers, side scan sonar, subbottom profilers, radar, and fathometers;

(iii) Copies of public records relating to the resource such as deeds, survey plats, military and census records, birth, marriage and death certificates, immigration and naturalization papers, tax forms and reports; and

(iv) Copies of archival records relating to the resource such as historical maps, drawings and photographs, manuscripts, architectural and landscape plans, diaries, ledgers, catalogs and receipts.

(c) "Curation" means the management and care of collections according to common, professional museum practices, including, but not limited to:

(1) Inventorying, accessioning, labeling and cataloging collections;

(2) Identifying, evaluating and documenting collections;

(3) Storing and maintaining collections under appropriate environmental conditions and physically secure controls;

(4) Periodically inspecting collections and taking any necessary actions as may be necessary to preserve them;

(5) Providing access to and facilities for studying collections; and

(6) Cleaning, stabilizing and conserving collections.

(d) "Federal Agency Official" means any officer, employee, or agent officially designated to represent the secretary of the department or the head of any other agency or instrumentality of the United States, having primary management authority over the collection.

(e) "Indian lands" means lands of Indian tribes or Indian individuals that are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for any subsurface interests in lands not owned or controlled by an Indian or an Indian individual.

(f) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688). In order to clarify this statutory definition for purposes of this part, "Indian tribe" means:

(1) Any tribal entity that is included in the annual list of recognized tribes published in the Federal Register by the Secretary of the Interior pursuant to 25 CFR Part 54;

(2) Any other tribal entity acknowledged by the Secretary of the Interior pursuant to 25 CFR Part 54 since the most recent publication of the annual list; and

(3) Any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and any Alaska Native village or tribe that is recognized by the Secretary of the Interior as eligible for services provided by the Bureau of Indian Affairs.

(g) 'Professional qualifications" means educational, training and experience qualification standards established by the Office of Personnel Management for entry level positions. Mid-level and senior level positions should have additional education, training and experience that is commensurate with the duties and responsibilities of the position. For purposes of this part, repository staff, consultants and Federal agency professionals must meet pertinent professional qualifications and have expertise appropriate to the nature and content of the collection.

(h) "Public lands" means:

(1) Lands, including submerged lands, that are owned and administered by the United States as part of the national park system, the national wildlife refuge system, or the national forest system; and

(2) All other lands, including submerged lands, the fee title to which is held by the United States, other than submerged lands on the Outer Continental Shelf and lands that are under the jurisdiction of the Smithsonian Institution.

(i) "Religious or sacred object" means archeologically recovered material remains that have been historically, habitually or exclusively used in religious or spiritual activities.

(j) "Repository" means a facility such as a museum, archeological center, laboratory or storage facility managed by a university, museum or other educational or scientific institution, or a Federal, State or local Government agency, that can provide professional, systematic and accountable curation and preservation on a long-term basis and can provide access to archeological collections and attendant records. For purposes of this part, repositories must have staff or consultants who meet pertinent professional qualifications and whose expertise is appropriate to the nature and content of the collection.

(k) "Tribal Official" means the chief executive officer or any officer, employee, or agent officially designated to represent the Indian tribe.

§ 79.5 Minimum capability requirements for repositories.

(a) Federal agencies must deposit, or instruct contractors, permittees, licensees or other pertinent parties to deposit, federally-owned and administered collections only in repositories with adequate long-term curatorial capabilities, appropriate to the nature and content of the collections. This requirement applies to repositories owned, leased or otherwise operated by Federal agencies as well as to non-Federal repositories.

(b) In evaluating a repository's capabilities to house a particular collection, the Federal Agency Official should:

(1) Consult with persons having expertise in the curation of collections. Persons who should be able to provide technical assistance include the agency's Historic Preservation Officer, archeologists, curators and other cultural resource specialists; the State Historic Preservation Officer; the State Archeologist; the State museum; the American Association of Museums; the Smithsonian Institution; and the National Park Service; and

(2) Examine the repository's facilities and formally written curation policies and operating procedures.

(c) A collection may be deposited at a repository only after the Federal Agency Official determines that the repository has the capabilities to accession, lable, catalog, store, maintain, inventory and conserve the particular collection on a long-term basis using common museum practices, and substantially complies with the following:

(1) Maintain complete and accurate records of the collection, including:

(i) Records on acquisitions;

(ii) Catalog lists;

(iii) Descriptive information;

(iv) Photographs;

(v) Locational information;

(vi) Information on the condition of the collection, including any completed conservation treatments;

(vii) Approved loans and other uses;

(viii) Periodic inventory and inspection records;

(ix) Records on lost, damaged or destroyed Government property; and

(x) Records on any deaccessions and subsequent transfers, exchanges or donations;

(2) At a minimum, store site forms, field notes, artifact inventory lists, catalog forms and a copy of the final report in a manner that will protect them from theft and fire such as:

(i) Storing the records in an insulated, fire resistant, locking cabinet, safe, vault or other container in a location with a fire suppression system;

(ii) Storing a duplicate set of records in a separate location; and

(iii) Providing the State Historic Preservation Officer and the State Archeologist with copies of records such as site forms and final reports.

(3) Dedicate the requisite facilities, equipment and space in the physical plant to properly store, study and conserve the collection. Space used for storage, study, conservation and, if exhibited, any exhibition must not be used for non-curatorial purposes that would endanger or damage the collection;

(4) Keep the collection under physically secure conditions within storage, laboratory, study and any exhibition areas by:

(i) Having the physical plant meet local electrical, fire, building, health and safety codes;

(ii) Having an appropriate and operational fire detection and suppression system;

(iii) Having an appropriate and operational intrusion detection and deterrent system;

(iv) Having an adequate emergency management plan to cover fires, floods, natural disasters, civil unrest, acts of violence, structural failures and failures of mechanical systems within the physical plant;

(v) Providing fragile or valuable items in a collection with additional security such as locking the items in a safe, vault or museum specimen cabinet, as appropriate;

(vi) Limiting and controlling access to keys, the collections and the physical plant; and

(vii) Inspecting the physical plant regularly in accordance with § 79.9 of this part for possible security weaknesses, and taking necessary actions to maintain the integrity of the collection;

(5) Require staff or consultants who are responsible for caring for the collection to have expertise appropriate to the particular material remains and associated records, and meet pertinent professional qualifications;

(6) Handle, store, clean, conserve and, if displayed, display the material remains and associated records in a manner that protects them from breakage and possible deterioration from adverse temperature and relative humidity, visible light and ultraviolet radiation, dust, soot, gases, mold,

fungus, insects and rodents, and general neglect;

(7) If material remains in a collection are to be treated with chemical solutions or preservatives that will permanently alter the remains, retain samples of each artifact type, environmental specimen or other category of material remains represented in the collection without any conservation treatment beyond dry brushing for future analytical purposes;

(8) Inspect the collection regularly in accordance with § 79.9 of this part for possible deterioration and damage, and perform only those actions as are absolutely necessary to stabilize the collection and rid it of any agents of deterioration;

(9) Conduct inventories periodically in accordance with § 79.9 of this part in order to verify the location of the material remains, associated records and any Government-furnished personal property in the possession of the repository; and

(10) Provide access to the collection in accordance with section 79.6 of this part.

§ 79.6 Use of collections.

(a) Federally-owned and administered archeological collections should be made available for legitimate study and use, consistent with the condition, value and uniqueness of the collection and with the mission of the Federal agency responsible for the collection.

(b) Guidelines for use.

(1) A collection should be available to qualified persons for study and for loan, to be used for public interpretation, educational and scholarly purposes such as in-house and traveling exhibits, teaching, scientific study and research. Qualified persons should include researchers, scholars, archeological contractors, educators and students. Any resulting exhibits and publications should acknowledge and credit the repository, the responsible Federal agency and, if the collection is from Indian lands, the Indian or Indian tribe that owns or has jurisdiction over the said lands.

(2) Religious or sacred objects in an archeological collection should be available to qualified persons for use in religious or spiritual ceremonies or rituals. Generally those objects would be of interest to Indian tribes, Alaskan Native corporations and other indigenous and immigrant ethnic, social and religious groups that have historically, habitually or exclusively used the specific objects or class of objects in religious or spiritual activities.

(3) Restrictions should be placed on the display, study or loan of any part of the collection if such use would damage or destroy the material remains or associated records. In those instances when a proposed use of an object would damage or destroy it, such use should be limited or denied. For example, educational programs involving frequent handling of certain objects may damage the objects. In such instances, use should be limited to unprovenienced, nonunique, nonfragile objects or to a sample of objects drawn from a larger collection of similar objects. Certain laboratory analyses also may damage or even destroy an object. In such instances, the decision to allow the analysis to be conducted should be made only after fully considering the potential gain in scientific information and the potential loss of the object.

(4) Human remains and religious and sacred objects should be handled with special care. Restrictions should be placed on the display, study or loan of those remains and objects if such use would not be in keeping with the dignitiy and respect accorded all human remains and religious objects.

(5) Under the Freedom of Information Act (5 U.S.C. 552), data in the form of associated records documenting an archeological resource is public information unless otherwise excluded. Under the National Historic Preservation Act (16 U.S.C. 470 *et seq.*) and the Archaeological Resources Protection Act (16 U.S.C. 470*aa–ll*) the Federal Agency Official must restrict access to information relating to the location and character of the resource if the Official determines that such disclosure may create a substantial risk of harm, theft or destruction to such resources or to the area or place where the resources are located. Access to such information should not be withheld from archeological contractors, researchers, scholars, students, tribal representatives, Federal, State or local agency personnel or other qualified persons for legitimate purposes.

(6) Repositories should not loan an object to a third party without a written agreement between the repository and the third party that specifies the terms of the loan. Appendix A to the regulations in this part contains an example of a loan agreement. At a minimum, an agreement should:

(i) State the purpose of the loan;

(ii) Stipulate the length of the loan; and

(iii) State that the object being loaned will be handled with care so as not to damage or reduce its scholarly or scientific value.

(7) Repositories should maintain records documenting approved loans, exhibits, studies and other uses of the collection.

(8) Repositories may charge reasonable fees to persons studying or borrowing the collection or a part of it to cover costs for handling, packing, shipping and insuring material remains, for photocopying associated records, and for any other incidental costs related to the use or loan. Fees should be determined in consultation with the Federal Agency Official.

§ 79.7 Contracts and agreements.

(a) Prior to authorizing any surface collection, subsurface testing or excavation of an archeological resource, the Federal Agency Official should instruct agency archeologists and non-Federal archeologists under contract or permit to consult with curators, collections managers and conservators from the specified repository regarding procedures for cleaning, labeling, cataloging, documenting, conserving and packaging material remains in the field.

(b) Any contract, agreement or other written instrument entered into by a Federal Agency Official, a repository and any other party for the care and maintenance of a collection should:

(1) Contain any special instructions for handling, storing, cleaning and conserving the collection;

(2) Specify procedures to be used by the repository for reviewing and approving or denying requests for study, loan, display, public interpretation and other uses; contain instructions on authorized and restricted uses; and specify methods for documenting approved uses. This will enable the repository to fully manage the collections placed under its care without involving the Federal Agency Official and the owner, if the owner is other than the United States Government, in the routine management of a collection. If the repository has existing operating procedures and criteria, which are consistent with the regulations in this part, for evaluating requests to use collections, those procedures and criteria should be used, after making any necessary modifications, in lieu of developing new ones.

(3) Contain instructions on restricted access to site locational information such as that contained in site record forms;

(4) Specify the time interval within which the physical plant is to be periodically inspected, the intervals within which the collection and any Government-furnished personal property in the possession of the repository are to be inspected and inventoried, and methods for documenting such inspections and inventories;

(5) Specify the term and any associated costs of the agreement and the process to modify, suspend, extend and terminate the agreement;

(6) Contain a statement identifying who owns or has jurisdiction over the collection;

(7) Contain a statement that the collection will not be transferred or exchanged without the written permission of the Federal Agency Official and the owner, if the owner is other than the United States Government;

(8) Contain a statement that the collection will not be sold;

(9) Contain a statement that the collection will be administered in accordance with the regulations in this part; and

(10) If the collection is from Indian lands, contain a statement that the individual Indian or Indian Tribe having jurisdiction or ownership rights over the said lands consents to the disposition.

§ 79.8 Disposition of collections.

(a) Consistent with the Federal Property and Administrative Services Act (40 U.S.C. 484), its implementing regulations (41 CFR Part 101) on Federal property management, and any agency-specific statutes and regulations on the management of museum collections, the Federal Agency Official should deposit a collection in a repository only after:

(1) Consulting with persons having expertise in curation matters such as those listed in paragraph (c) of this section;

(2) If the collection is from Indian lands, consulting with the Indian Tribal Official to obtain the tribe's or individual Indian's consent, in writing, for depositing the Indian-owned collection in the said repository;

(3) Determining that the repository meets the capability requirements set forth in § 79.5 of this part;

(4) The repository agrees in writing that the collection will be cared for and maintained in a manner consistent with this part;

(5) Determining that the archeological contractor, grantee, permittee or other person who surveyed or excavated the archeological resource has completed initial processing (such as cleaning, sorting, labeling and packaging) and documentation (such as analysis and report writing) of the collection; and

(6) Notifying the State Historic Preservation Officer and the owner, if the owner is other than the United States Government, of the name and location of the repository for record-keeping purposes. If the repository is located in a State other than the State in which the archeological resource is located, the Federal Agency Official should notify the State Historic Preservation Officers in both States.

(b) Location of collections. (1) When possible, the Federal Agency Official should deposit the collection in a repository that is geographically near the site or project location or in the State of origin so that the collection may be readily accessible to local citizens and researchers.

(2) When possible, the Federal Agency Official should deposit the collection in a repository that stores and maintains other collections from the same site or project location, thereby reducing the agency's and the repository's costs for storing, maintaining and studying the various collections.

(3) When an archeological center or regional repository is used, the Federal Agency Official should deposit the collection in a center or regional repository that houses collections from a similar geographic region or cultural area.

(4) The Federal Agency Official should not subdivide and store the collection at more than a single repository unless such subdivision is necessary to meet special storage, conservation or research needs.

(5) Material remains and associated records documenting the excavation of an archeological resource should be deposited in the same repository to maintain the integrity and research value of the collection.

(c) Sources for technical assistance. The Federal Agency Official should consult with persons having expertise in the curation of collections in order to make informed decisions on the qualifications and appropriateness of a repository to care for and maintain a collection. Persons who should be able to provide technical assistance include the agency's Historic Preservation Officer and archeologists, curators and other cultural resource specialists in the agency; the State Historic Preservation Officer and the State Archeologist; departments of anthropology at the State museum or State university; the American Association of Museums; the Smithsonian Institution; and the National Park Service.

(d) Consistent with applicable Federal procurement and property management statutes and regulations, examples of methods used by Federal agencies to adequately care for and maintain a collection include but are not limited to:

(1) Placing the collection in a repository owned, leased or otherwise operated by the Federal agency;

(2) Including curatorial requirements in an initial permit or contract for archeological surface collection, subsurface testing or data recovery;

(3) Entering into a cooperative agreement, a memorandum of understanding or a memorandum of agreement, as appropriate, with a State, local or tribal repository, or a university, museum or other scientific or educational institution that operates or manages a repository, for curatorial services;

(4) Entering into a contract or purchase order with a repository for curatorial services;

(5) Entering into an interagency agreement with another Federal agency for:

(i) Curatorial services;

(ii) Transferring the collection to the other Federal agency; or

(iii) Exchanging the collection for another collection that is owned by the other Federal agency;

(6) Exchanging the collection for another collection that is owned by a State, local or tribal repository, or a university, museum or other scientific or educational institution, for public purposes such as conservation and education; and

(7) Transferring the collection by donation to a State, local or tribal repository, or a university, museum or other scientific or educational institution, for public purposes such as conservation and education.

(e) Prohibitions. The Federal Agency Official shall not sell or discard a collection or any part of it if the collection was removed or recovered from a prehistoric or historic archeological resource under the authority of, or in violation of, the Antiquities Act (16 U.S.C. 431–433), the Archeological and Historic Preservation Act (16 U.S.C. 469–469*c*), section 110 of the National Historic Preservation Act (16 U.S.C. 470 *et seq.*), or the Archaeological Resources Protection Act (16 U.S.C. 470*aa–ll*).

(f) The Federal Agency Official shall maintain records on the disposition of each collection and any Government-furnished personal property, inlcuding but not limited to:

(1) A catalog list of the contents of the collection;

(2) A list of any Government-furnished personal property in the possession of the repository;

(3) Reports documenting periodic inspections and inventories;

(4) Reports documenting investigations of loss, damage or destruction;

(5) The name and location of the repository; and

(6) Any subsequent transfer and exchange.

§ 79.9 Periodic inspections.

(a) Consistent with the Federal Property and Administrative Services Act (40 U.S.C. 484), its implementing regulations (41 CFR Part 101) on Federal property management, and any agency-specific statutes and regulations on the management of museum collections, repositories that house and care for federally-owned or administered collections shall:

(1) Provide the Federal Agency Official with a copy of the catalog list of the contents of the collection deposited in the repository and a list of any Government-furnished personal property in the possession of the repository;

(2) Periodically inspect the physical plant for the purpose of monitoring the physical security and environmental control measures;

(3) Periodically inspect the collection for the purpose of assessing the condition of the material remains and associated records and monitoring those remains and records for possible deterioration and damage;

(4) Periodically inventory the collection by accession, lot or catalog record for the purpose of verifying the location of the material remains and associated records;

(5) Annually inventory any Government-furnished personal property such as specimen cabinets and exhibit cases in the possession of the repository;

(6) Have qualified professionals conduct the inspections and inventories;

(7) Following each inspection and inventory, notify the Federal Agency Official, in writing, concerning the results of the inspection and inventory, the status of the collection, treatments completed and recommendations for additional treatments;

(8) Within five (5) days of the discovery of any loss of, damage to or destruction of the collection or any Government-furnished personal property, notify the Federal Agency Official, in writing, concerning circumstances surrounding the lost, stolen, damaged or destroyed collection or personal property; and

(9) Make the collection available for periodic inspection by the Federal Agency Official or designated representative.

(b) The Federal Agency Official or designated representative shall periodically inspect the repository, the collection and any Government-furnished personal property for the purposes of:

(1) Inventorying Government property;

(2) Investigating reports of lost, stolen, damaged or destroyed Government property;

(3) Determining whether the repository still meets the minimum capability requirements set forth in this part; and

(4) Evaluating the performance of the repository in properly managing the collections.

(c) The period of and methods for documenting inspections and inventories shall be mutually agreed to, in writing, between the Federal Agency Official and the repository, and be appropriate to the nature and content of the collection. Material remains and records of a fragile, perishable or valuable nature should be inspected and inventoried on a more frequent basis than other remains or records.

(d) In those instances where a repository is housing and caring for several collections that are owned or administered by several Federal agencies, the pertinent Federal Agency Officials should, to the extent possible:

(1) Direct the repository to coordinate the periodic inspections and inventories stipulated in paragraphs (a)(2)–(a)(5) of this section for each of the collections; and

(2) Cooperate with the other Federal Agency Officials by designating one or more qualified Federal agency professionals to conduct inspections pursuant to paragraphs (b)(1) through (b)(4) of this section on behalf of the other agencies, and prepare and distribute to each Federal Agency Official a written report of findings and recommendations to correct or resolve any problems identified.

§ 79.10 Funding.

Subject to appropriations by the Congress for such purposes, a variety of approaches are used by Federal agencies to ensure that sufficient funds are available for adequate, long-term care and maintenance of collections. Those approaches include but are not limited to the following:

(a) Including curatorial costs in requests for annual appropriations for the:

(1) Purchase, construction and/or operation and maintenance of a repository owned, leased or otherwise operated by the Federal agency;

(2) Maintenance of any cooperative agreement, memorandum of understanding, memorandum of agreement, contract or interagency agreement with a repository for long-term curatorial services;

(b) Directing licensees and permittees to pay repositories for reasonable curatorial costs as a condition to the issuance of a Federal license or permit;

(c) Ensuring that a repository has sufficient operating funds to pay for reasonable curatorial costs as a condition to entering into any cooperative agreement, memorandum of understanding, memorandum of agreement, or interagency agreement giving the repository the right to possess, use and study the federally owned or administered collection;

(d) Including curatorial costs paid by any grantee as project costs eligible for reimbursement by the Federal agency as a part of the grant project;

(e) Including curatorial costs paid by any State agency to carry out the Federal agency's preservation responsibilities as project costs eligible for reimbursement by the Federal agency as a part of the project;

(f) Including curatorial costs for resources recovered during identification and evaluation surveys in project planning budgets rather than in mitigation budgets;

(g) Including curatorial costs for resources excavated during data recovery operations in project mitigation budgets; and

(h) Waiving the 1 percent limitation on mitigation costs contained in the Archeological and Historic Preservation Act (16 U.S.C. 469–469*c*) after obtaining the concurrence of the Secretary of the Interior and after notifying the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

Appendix A to Part 79—Example of a Short-term Loan Agreement

Short-Term Loan Agreement Between the

_____

(Repository)

and the

_____

(Borrower)

The _____, hereinafter called the Repository, agrees to loan to the _____, hereinafter called the Borrower, certain artifacts, specimens and associated records, listed in Attachment A, which were collected from the _____ archeological site(s), assigned _____ site number(s), and recovered in connection with the _____ project, located in _____, _____ county, in the State of _____. The Collection is the property of the United States Government. The artifacts, specimens and associated records are being loaned for the purpose(s) of _____, beginning on _____, 19_____ and ending on _____, 19_____.

During the term of the loan, the Borrower agrees to handle, package and ship or

transport the Collection in a manner that protects it from breakage, loss, deterioration and contamination, in conformance with the regulation (36 CFR Part 79) for the curation of federally-owned and administered archeological collections and the Secretary of the Interior's Guidelines for Historic and Archeological Resource Management. The Borrower also agrees to assume full responsibility for insuring the Collection during transit and while in its custody. Within five (5) days of discovery, the Borrower will notify the Repository of instances and circumstances surrounding any loss of, damage to, or destruction of the Collection and will, at the direction of the Repository, take steps to conserve damaged materials.

The Borrower agrees to acknowledge and credit the United States Government and the Repository in any exhibits or publications resulting from the loan. The credit line shall read as follows: "Courtesy of the _____."

Upon termination of this agreement, the Borrower agrees to properly package and ship or transport the Collection to the Repository.

Either party may terminate this agreement, effective not less than _____ days after receipt by the other party of written notice, without further liability to either party.

Signed:— _____
Date:— _____
Signed:— _____
Date:— _____

Attachment A: Inventory of the Objects being Loaned

Appendix B to Part 79—Example of a Memorandum of Understanding for Curatorial Services

Memorandum of Understanding for Curatorial Services between the

_____

(Federal Agency)

and the

_____

(Repository)

This Memorandum of Understanding is entered into this _____ day of _____, 19____, between the United States of America, acting by and through the _____, hereinafter called the Depositor, and the _____, hereinafter called the Repository, in the State of _____.

The Parties do witnesseth that,

Whereas, the Depositor has the responsibility under Federal law to preserve for future use certain archeological collections of artifacts, specimens and associated records, herein called the Collection, listed in Attachment A which is attached hereto and made a part hereof, and is desirous of obtaining curatorial services; and

Whereas, the Repository is desirous of obtaining, housing, and caring for the Collection, and recognizes the benefits which will accrue to it, to the public, and to scientific interests by housing and caring for the Collection for study and other educational purposes; and

Whereas, the Parties hereto recognize the Federal Government's continued ownership or control of the Collection and its responsibility to ensure that the Collection is suitably preserved and maintained for the public good; and

Whereas, the Parties hereto recognize the mutual benefits to be derived by having the Collection suitably housed and cared for by the Repository;

Now therefore, the Parties do mutually agree as follows:

1. The Repository shall:

a. Provide for the professional care and management of the Collection from the _____ archeological site(s), assigned _____ site number(s), collected in connection with the _____ project, located in _____, _____ county, in the State of _____.

b. Perform all work necessary to protect the Collection in accordance with the regulation (36 CFR Part 79) for the curation of federally-owned and administered archeological collections, the Secretary of the Interior's Guidelines for Historic and Archeological Resource Management, and the stipulations listed in Attachment B to this Memorandum on the use of the Collection.

c. Assign _____ as the Curator, _____ as the Collections Manager and _____ as the Conservator for this work.

These designations shall not be changed without prior written permission of the Depositor.

d. Begin all work on or about _____ and continue for a period of _____ years or until sooner terminated or revoked in accordance with the terms set forth herein.

e. Not mortgage, pledge, assign, transfer, exchange, give, sublet or part with possession of any of the Collection in any manner to any third party either directly or indirectly without the prior written permission of the Depositor and not do or suffer anything to be done whereby any of the Collection shall or may be encumbered, seized, taken in execution, sold, attached, lost, stolen, destroyed, or damaged.

f. Not in any way adversely alter or deface any of the Collection except as may be absolutely necessary in the course of scientific study, analysis, and research. Any study that will involve the intentional destruction of any of the Collection must be approved in advance and in writing by the Depositor.

g. Provide and maintain a repository facility having requisite equipment and space, and adequate safeguards for the physical security and controlled environment for the Collection and the Government-furnished personal property, listed in Attachment C, in the possession of the Repository.

h. Annually inventory the Government-furnished personal property and inspect the facilities and the Collection. Every _____ years, inventory the Collection. Perform only those conservation treatments as are absolutely necessary to ensure the physical stability and integrity of the Collection, and report the results of all inventories, inspections and treatments to the Depositor.

i. Within five (5) days of discovery, report all instances of and circumstances surrounding loss of, damage to, or destruction of the Collection and the Government-furnished personal property to the Depositor, and those actions taken to stabilize the Collection and to correct any deficiencies in the physical plant or operating procedures that may have contributed to the loss of damage. Any actions that will involve the repair and restoration of any of the Collection and the Government-furnished personal property must be approved in advance and in writing by the Depositor.

j. Review and approve or deny requests for access to, short-term loan, study and other uses of the Collection in accordance with the regulation (36 CFR Part 79) for the curation of federally-owned and administered archeological collections and the stipulations on use (Attachment B) required by the Depositor.

2. The Depositor shall:

a. On or about _____, deliver or cause to be delivered to the Repository the Collection, as described in Attachment A, and the Government-furnished personal property, as described in Attachment C.

b. Designate _____, having expertise in the care and management of archeological collections, as the Depositor's Representative to exercise full authority with regard to this Memorandum.

c. Every _____ years, have the Depositor's Representative inspect and inventory the Collection and inspect the repository facility jointly with the Repository's designated representatives.

3. Removal of all or any portion of the Collection from the premises of the Repository for use in interpretive displays, for educational or scholarly purposes, or for use in religious or spiritual ceremonies, may be allowed only in accordance with the regulation (36 CFR Part 79) for the curation of federally-owned and administered archeological collections, the stipulations on use in Attachment B, and any conditions of handling, packaging, transporting, and other conditions specified by the Repository to prevent breakage, deterioration or contamination.

4. The Collection or portions thereof may be exhibited, photographed or otherwise reproduced and studied in accordance with the stipulations on use in Attachment B. All exhibits, reproductions and studies must credit the Depositor and the Repository, and read as follows: "Courtesy of the _____."

5. The Repository shall maintain complete and accurate records of the Collection and the Government-furnished personal property, including information on the study, use, loan and location of said Collection which has been removed from the premises of the Repository.

6. Upon execution by both parties, this Memorandum of Understanding shall be effective on this _____ date of _____, 19____, and shall remain in effect for _____ years, at which time it will be reviewed, revised, as necessary, and reaffirmed or terminated. This Memorandum may be revised or extended by mutual consent of both parties, or by issuance of a written amendment signed and dated by both parties. Either party may terminate this Memorandum by providing 90 days written notice. Upon termination, the Repository shall return such Collection to the destination directed by the Depositor and in such manner to preclude breakage, loss, deterioration and

contamination during handling, packaging and shipping, and in accordance with other conditions specified in writing by the Depositor. If the Repository terminates or is in default of this Memorandum, the Repository shall fund the packaging and transportation costs. If the Depositor terminates this Memorandum, the Depositor shall fund the packaging and transportation costs.

7. Title to the Collection being cared for and maintained under this Memorandum lies with the Federal Government.

In Witness Whereof, the Parties hereto have executed this Memorandum.

Signed:— _____

Date:— _____

Signed:— _____

Date:— _____

Attachment A: Inventory of the Collection

Attachment B: Stipulations on Use of the Collection Required by the Depositor

Attachment C: Inventory of the Government-furnished Personal Property

[FR Doc. 87-19751 Filed 8-27-87; 8:45 am]

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Part VI

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203 and 234

Termination of Section 245(b) GPM Program; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203 and 234

[Docket No. R-87-1317; FR-2266]

Termination of Section 245(b) GPM Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule terminates the section 245(b) Modified Graduated Payment Mortgage (GPM) program. In the Department's view, termination of the program is warranted (as discussed in the proposed rule initiating this action) because of the program's disproportionately high claim rate and because of the availability of less risky and often less expensive substitute programs.

EFFECTIVE DATE: October 13, 1987.

FOR FURTHER INFORMATION CONTACT: John Coonts, Office of Insured Single Family Housing, Room 9266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone number (202) 755-3046. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Summary of the Proposed Rule

The Department published in the **Federal Register** of March 26, 1987 (52 FR 9666) a rule that proposed the termination of the section 245(b) Modified Graduated Payment Mortgage (GPM) program. The preamble to the proposed rule described the GPM program and discussed in some detail the history of section 245(b), pointing out that—

> the modified GPM program under section 245(b) was approved in an effort to make single family housing more affordable, especially to first-time homebuyers. The legislative history indicated that Congress was concerned that the increasing cost of housing at that time made the achievement of the goal of homeownership less possible for this class of homebuyer.

The March 26, 1987 rule also pointed out that the Department had had reservations about the soundness of the modified GPM program, and has so testified to the congressional committees considering the enabling legislation. The Department was concerned that since "the program [was] designed to take advantage of inflation, it necessarily *requires* significant inflation in order for borrowers to meet their mortgage obligations." 52 FR at 9667.

The regulations at paragraph (f) of §§ 203.46 and 234.76, implementing section 245(b), provided in part that "The sum of the payments to principal and/or interest shall increase annually for a period of ten years at a rate of 4.9 percent per year or for a period of 5 years at a rate of 7½ percent per year." As stated in the proposed rule "This provision requires that a borrower's income increase annually by an amount sufficient to meet the increased mortgage payments if the initial payment-to-income underwriting ratios are to be maintained." 52 FR at 9667–8.

The proposed rule also drew attention to the increased likelihood of default in programs where borrowers have little or no equity in their homes. It stated that in the modified GPM program—

> the borrower's equity is eroded through negative amortization throughout the early years of the mortgage, since the interest shortfall between initial GPM payments and initial level mortgage payments over the first 5 years is added to the mortgage balance. Paragraph (b) §§ 203.46 and 234.76 specifically recognizes the possibility of this occurring by providing that
>
> The mortage may provide that any interest which accrues and which is unpaid pursuant to a financing plan approved by the Secretary shall be added to the principal obligation of the mortgage.
>
> Also under paragraph (b)(2)(i) of §§ 203.46 and 234.76, the accrued mortgage interest plus the outstanding mortgage balance may be equal to "113 percent of the appraised value of the property." . . . Hence, GPM borrowers in weak markets with little inflation in home prices would have substantial incentive to default.
>
> 52 FR at 9668.

The Department provided further justification in the proposed rule for the elimination of the section 245(b) modified GPM program by citing claims data for mortgages endorsed over the last six years under this program. The data compared the claim rate in the section 245(b) modified GPM program with that of the section 203(b) and 245(a) programs. The data showed that, especially after the first two years of endorsement of mortgages under these programs, the disparity in the claim rate (comparing endorsements for the period 1981–1985) between the section 245(b) program and the other two programs becomes very pronounced.

Data cited in the proposed rule show

> That the section 245(b) GPMs requiring the least equity after five years have a cumulative claim rate of 20.53 percent compared to a claim rate, for the period from endorsement to mid-1986, of 9.91 percent for the section 203(b) program (excluding investor and low-downpayment mortgages. When all section 203(b) mortgages are considered, including investor and low-downpayment mortgages, the claim rate rises to 13.82 percent for the section 203(b) program.). The section 245(b) claim rate for 1981 endorsements is 143 percent higher than that of the 245(a) GPM program. (The 245(a) program requires a substantial initial equity contribution to keep the mortgage balance, inclusive of deferred interest, from exceeding 97 percent of the original appraised value.)
>
> For mortgages endorsed for insurance in 1982, the cumulative claim rate for the section 245(b) program was 14.92 percent compared to a claim rate of 9.50 percent for all mortgages insured under section 203(b) (the latter figure decreases to 6.89 percent when claims filed for investor and low-downpayment mortgages are excluded from the total of all claims filed for mortgages insured under section 203(b)).
>
> The claim rate for mortgages endorsed in 1982 for the section 245(a) program was almost [two-thirds] less (5.33 percent) than that of the 245(b) program. The comparable figures among the three programs (*i.e.*, 203(b), 245(a), and 245(b)) and 1983 are less dramatic, but nonetheless still show a higher incidence of default in the 245(b) program than in the other two programs, except in 1984 when the claim rate for the section 245(b) program was 2.50 percent compared to a claim rate of 2.70 percent for all section 203(b) mortgages. (This seeming aberration is explained by the historical fact that the claim rate in the section 245(b) program is low in the first two years, increasing in later years, compared to the claim rate in the section 203(b) program.)
>
> For mortgages endorsed in 1983, the cumulative claim rate for the section 245(b) program was more than double that of the rate for the section 245(a) program (4.61 percent versus 2.02 percent) and almost 2½ times that of the section 203(b) program (excluding investor and low-downpayment mortgages). When investor and low-downpayment mortgages are included, the section 203(b) rate increases to 3.56 percent—still lower than the 4.61 percent rate for the section 245(b) program. In 1984, the claim rate percentages were 2.50, 1.66, and 1.38 for the sections 245(b), 203(b) (excluding investor and low-downpayment mortgages), and 245(a), respectively.

Other data that the Department found instructive in its decision to terminate this program were Department of Labor income figures for the period 1980–1985, and statistics on the sales prices of existing homes for a comparable period. These data show that non-supervisory workers' earnings increased about 27 percent for the years 1980–1985, compared to the 44 percent mortgage payment increase over a 5-year period that would be required to keep pace with the 7½ percent increase in mortgage payments compounded annually. Statistics on housing prices show that for a like period the median sales prices of existing homes increased

by 21.4 percent. The Department acknowledged in the proposed rule that this increase exceeded the annual 3 percent increase needed to maintain a rough comparability between the value of a house and the outstanding mortgage balance. The rule cautioned, however, that the 21.4 percent increase was a national average that masked the fact that, in some areas of the country, home prices increased by less than 3 percent annually.

These data, including those showing the comparatively high claim rate in the section 245(b) modified GPM program, along with the Department's belief that good substitutes for the section 245(b) program now existed, e.g., the adjustable rate mortgage (ARM) (see 24 CFR 203.49), that did not exist in 1981, persuaded the Department that the modified GPM program should be terminated. The Department also stated as a further justification for eliminating this program, and thus removing the implementing regulations at 24 CFR 203.46 and 234.76, that "with the current low rate of inflation (translating into lower inflationary equity in single family homes and smaller increases in wages) the basis on which the program was founded, *i.e.*, reliance upon continuing substantial inflationary increases in home sales prices and family income, no longer exists."

Public Comments

The proposed rule invited public comment for a 60-day period ending May 26, 1987. Eight comments were received. Four commenters opposed elimination of the program while three commenters favored its elimination; the remaining commenter expressed no opinion, but sought information on the data relied on by HUD for discontinuing the GPM program. A summary of the comments, along with the Department's responses, follows:

One commenter, in arguing against termination of the section 245(b) program, contended that the low downpayment and low initial payments under the program have helped thousands of moderate-income buyers to own a home. Another commenter raised a similar argument, asserting that the section 245(b) program is now a major financing tool for many builders who try to provide a new home for families who were limited to renting or buying unacceptable resale properties.

In the Department's view, the issue goes beyond the program's making homeownership opportunities available to a certain class of buyers. The real issue is the ability of these homeowners to avoid losing their homes because they are unable to meet the escalating payments in the early years of the mortgage. Thus, to the extent that many section 245(b) mortgages, as the statistics cited above indicate, are foreclosed, it neither advances the goal of homeownership nor, contrary to a commenter's argument, acts as the only possible source of tax shelter for low- to middle-income homebuyers.

Two commenters disagreed that the FHA Adjustable Rate Mortgage (ARM) is a good substitute for the section 245(b) GPM program. According to these commenters, the limitations on seller financing concessions along with the annual cap on both total commitments and commitments per lender in the ARM program result in its not being a good substitute for the section 245(b) GPM program.

The Department recognizes that the ARM program may have certain imposed limitations, both statutory and regulatory—as does the modified GPM program. For example, § 203.46(j) limits to a maximum of 50,000 the number of modified GPMs that can be insured in any fiscal year. However, the Department reaffirms its position, set forth in the proposed rule (see 52 FR at 9668–69) that

> the FHA adjustable rate mortgage (ARM) allows a borrower, including first-time homebuyers, to achieve the same end as the section 245(b) GPM—lower initial payments than for a fixed-rate mortgage—but at lower cost to the borrower and significantly less risk to the Department. See 24 CFR 203.49.
>
> The initial section 245(b) GPM payment is similar to the payment on the same mortgage with an interest rate about 3 percentage points below the section 203(b) current market rate. The FHA ARM initial payment is based on an interest rate that is generally (though not always) lower than the section 203(b) market rate. The GPM payment will increase over 5 years to a payment consistent with an interest rate increase of about 1 percentage point over the [initial 203(b)] market rate, with no change thereafter. The FHA ARM interest rate cannot increase by more than one percentage point annually with a maximum increase over the life of the loan of 5 percentage points. See 203.49(e)(1)(iii). The ARM payment, however, unlike those of the GPM which *must* rise, could remain at initial levels or fall in later years without creating any negative amortization risks for FHA or for the borrower.

Commenters suggested that if HUD were to modify the program to reduce the amount of allowable negative amortization or adopt more stringent underwriting standards, the modified GPM program could continue to function as a useful vehicle for first-time homebuyers. One commenter, while expressing understanding for HUD's attempt to reduce "the financial burden on the government" by eliminating the program, posited that HUD's mandate, as he saw it, of providing "affordable home financing for . . . a high risk class of buyers" was at odds with its goal of eliminating costly programs.

Other suggestions offered by a commenter to make the section 245(b) modified GPM program less risky included a five percent increase in the MIP, along with collecting it monthly, but not including it in the mortgage loan; a requirement that housing values and income increase, on the average, by a minimum of 2 percent and 3.5 percent, respectively, over the three-year period *preceding* purchase of a home insured under section 245(b); a limit on the annual endorsements for insurance under section 245(b) to five percent of the number of section 203(b) endorsements made in the previous year; and a requirement of one additional payment each year for the second through the sixth year of the mortgage.

In the Department's judgment, modification of the program, or the adoption of stringent underwriting standards would justify most of the applicant class that commenters are trying to protect. Indeed, the Department considered modifications to the program short of termination in formulating the proposed rule. This alternative was rejected then because more stringent standards would result in a program that was virtually moribund, insuring only a few mortgages—largely those involving mortgagors who, because of the new standards, could just as easily have qualified under a less risky program, e.g., section 203(b). For this reason, among others, the Department decided to eliminate the section 245(b) modified GPM program rather than have a little-used program that would still be risky.

The other suggestions referred to above are not being adopted in this rule because the Department considers them impracticable as a solution (e.g., the requirement of a past increase in housing values and income); or because their predictive value, irrespective of recent trends, is too uncertain to reduce the risk associated with this program; or their adoption would require legislative action (e.g., a significant MIP increase, or a requirement of additional mortgage payments); or the suggested provision is already in effect (e.g., the limit on the number of mortgages insurable under section 245(b)).

With respect to a commenter's point regarding conflict between HUD's "mandate" and its "goal", the Department recognizes that it does have

a responsibility to provide affordable housing. However, when a program proves disproportionately costly, the Department must meet its obligation of protecting the insurance fund. Elimination of this program, which has insured a comparatively miniscule number of all the mortages insured by FHA over the last five years, could hardly be said to be tantamount to HUD's ignoring or abdicating the so-called "mandate." Furthermore, from the point of view of mortgagors the program is intended to benefit, the high rate of default would suggest that the housing being provided under section 245(b) was, in fact, too often not "affordable".

One commenter argued against the program's elimination because, as his data indicate, some regions showed a higher claim rate than the rest of the country. According to the commenter "[n]ot every program must work in all areas of the country to measure its success" and the problem may have been that in the program's initial years "deep buydowns, unrealistic appraisals and [a] too optimistic approach to continued employment and [high] inflation" resulted in a high rate of default in some regions.

The Department will not follow the implied recommendation of the comment that the program should be continued in those regions that have a low section 245(b) default rate. In the first place, unless a statute so requires or permits, the Department has no basis for discriminating in the implementation of this or any other program against certain regions that are economically disadvantaged. Second, this program has nothing to do with regional usage, but with individual mortgage applicants, no matter their geographic location. Thus, HUD would be exposing itself to legal attack were it to declare particular regions ineligible under this program, notwithstanding that there might be individual applicants in those regions who met all the underwriting criteria applicable to mortgagors in eligible areas. Additionally, if the implication is that a low default rate is associated with high employment, incomes, and inflation (factors on which the program was predicated, as mentioned above), and that HUD should monitor these factors by region to determine where the program should be operative, the Department would have to reject this implied recommendation too, because HUD is not generally equipped to monitor economic trends by areas and periodically modify a program affected by regional economic trends.

Accordingly, the Department amends 24 CFR Chapter II by removing §§ 203.46 and 234.76 "Eligibility of modified graduated payment mortgages." As stated in the proposed rule, HUD will honor applications for mortgage insurance pending under these sections if received before October 13, 1987. Thereafter, no application for section 245(b) modified GPM insurance will be accepted for processing. With respect to the direct endorsement program, HUD will endorse the loan for insurance (if FHA requirements are otherwise satisfied) where the mortgage credit approval of the applicant (Form HUD-92900) was signed by the direct endorsement underwriter before October 13, 1987.

Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule terminates a program that is costly, but leaves adequate substitutes in the form of other programs that are avai able to mortgagors and mortgagees.

This rule was listed as Item No. 924 in the Department's Semiannual Agenda of Regulations published on April 27, 1987 (52 Fr 14380) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.117, 14.133, and 14.159.

List of Subjects

24 CFR Part 203

Home improvement, Loan programs: Housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

Accordingly, the Department amends 24 CFR Parts 203 and 234 as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for Part 203 continues to read as follows:

Authority: Secs. 203, 211, National Housing Act (12 U.S.C. 1709, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). In addition, Subpart C also is issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

§ 203.46 [Removed]

2. Section 203.46 is removed.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

3. The authority citation for Part 234 continues to read as follows:

Authority: Secs. 211, 224, National Housing Act (12 U.S.C. 1715b, 1715y); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 234.76 [Removed]

4. Section 234.76 is removed.

Dated: August 19, 1987.

Thomas T. Demery,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 87-19768 Filed 8-27-87; 8:45 am]

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federal register

Friday
August 28, 1987

Part VII

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 840 and 842

Surface Coal Mining and Reclamation Operations; Initial and Permanent Regulatory Programs; Abandoned Sites; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 840 and 842

Surface Coal Mining and Reclamation Operations; Initial and Permanent Regulatory Programs; Abandoned Sites

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) proposes to amend its regulations to define "abandoned site" and to change the inspection frequency for such sites. These revisions would enable regulatory authorities to eliminate numerous ineffective inspections, and thus transfer inspectors to operations where enforcement would achieve the intended results.

DATES: *Written Comments:* OSMRE will accept written comments on the proposed rule until 5:00 p.m. Eastern time November 6, 1987.

Public hearings: Upon request, OSMRE will hold a public hearing on the proposed rule in Washington, D.C. The hearing will be held on October 30, 1987. Upon request, OSMRE will also hold public hearings in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington at times and on dates to be announced prior to the hearings. OSMRE will accept requests for public hearings until 5:00 p.m. Eastern time on September 28, 1987.

ADDRESSES: *Written comments:* Hand-deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L St NW., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131–L, 1951 Constitution Avenue NW., Washington, DC 20240.

Public hearings: Department of the Interior Auditorium, 18th and C Streets NW., Washington, DC. The addresses for any hearings scheduled in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington will be announced prior to the hearings.

Request for public hearings: Submit orally or in writing to the person and address specified under **"FOR FURTHER INFORMATION CONTACT."**

FOR FURTHER INFORMATION CONTACT: Daniel Stocker, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240: Telephone: 202–343–5385 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

Written Comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where practicable, commenters should submit three copies of their comments (see **"ADDRESSES"**). Comments received after the close of the comment period or delivered to addresses other than those listed above (see **"DATES"**) may not be considered or included in the Administrative Record for the final rule.

Public Hearings

OSMRE will hold public hearings on the proposed rule on request only. The time, date, and address scheduled for the hearing in Washington, DC are (see **"DATES"** and **"ADDRESSES"**). The times, dates, and addresses for any hearings at other locations have not yet been scheduled, but will be announced in the **Federal Register** at least 7 days prior to any hearings which are held at those locations.

Any person interested in attending or participating at a hearing at a particular location should inform Mr. Stocker (see **"FOR FURTHER INFORMATION CONTACT"**) either orally or in writing of the desired hearing location by 5:00 p.m. Eastern time September 28, 1987. If no one has contacted Mr. Stocker to express an interest in participating in a hearing at a given location by that date, no hearing will be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSMRE requests that persons who testify at a hearing give the transcriber a copy of their testimony. To assist OSMRE in preparing appropriate questions, OSMRE also requests that persons who plan to testify submit to OSMRE at the address previously specified for submission of written comments (see **"ADDRESSES"**) an advance copy of their testimony.

II. Background

The Surface Mining Control and Reclamation Act of 1977 (the Act) requires State regulatory authorities and OSMRE, where it is the regulatory authority, to inspect surface coal mining and reclamation operations. 30 U.S.C. 1267(a). To implement the Act's inspection requirements, OSMRE first promulgated rules at 30 CFR Part 840 for State regulatory authority inspection and enforcement, and at 30 CFR Part 842 for Federal inspections. *44 FR 15455 (March 13, 1979)* These rules applied to permitted and unpermitted sites, and to initial and permanent program operations. They required regulatory authorities to inspect all surface coal mining and reclamation operations on an average of not less than one partial inspection per month and not less than one complete inspection per calendar quarter.

The rules were revised on August 16, 1982. *47 FR 35620.* The 1982 rules defined "inactive" surface coal mining and reclamation operations, and reduced the partial inspection frequency requirement for these operations to "as necessary to ensure effective enforcement" of the regulatory program, while retaining the same frequency for complete inspections.

Abandoned sites are incompletely reclaimed surface coal mining and reclamation operations where mining has ceased and is unlikely to resume. In many instances the operators at these sites are bankupt or have disappeared. They either will not or cannot comply with corrective measures directed in notices of violation or cessation orders which inspectors have issued to abate violations of environmental performance standards. OSMRE believed in 1982 that "(T)he fact that a mine has been abandoned does not mean that it is in compliance or that there is no one against whom enforcement action can be taken. Thus a reduction in inspection frequency would be inappropriate." *47 FR 35627.* Several years experience in implementing the 1982 rules has led OSMRE to re-evaluate this position. OSMRE also explained in the preamble to the 1982 rule that it had rejected a proposal to reduce the inspection frequency for abandoned sites. Furthermore, nothing in sections 517 (c) and (h) of the Act or in their legislative history suggests that Congress intended the useless act of perpetual inspections of abandoned sites long after the enforcement measures available to the inspector have proven ineffective. OSMRE now concludes that repeated inspections at abandoned sites are an

ineffective expenditure of resources and that fewer inspections would not result in increased harm to the environment or reduce in any way the likelihood of ultimate compliance. This conclusion is based on the following considerations.

(1) There is still a significant number of abandoned sites which must be inspected 12 times per year under present regulations. *30 CFR 840.11, 842.11.* While abandoned sites are not in compliance, many, because of their age, have become reasonably stabilized through natural settlement and revegetation processes or where partially reclaimed before they were abandoned. OSMRE believes that few of these sites constitute a danger to the environment or to the public health or safety beyond that which has already been observed in prior inspections. For example, in approximately 6,000 inspections conducted at abandoned sites in Tennessee, OSMRE inspectors have not observed any conditions which constituted an imminent danger to the public health and safety or imminent environmental harm to land, air, or water resources.

(2) Inspectors have normally cited all violations in the first few months after a site has been abandoned. Repeated inspections and subsequent issuance of new notices of violation or cessation orders fail to compel correction of violations or completion of reclamation because the operators responsible for these sites are typically bankrupt or have disappeared.

(3) Current inspection frequency requirements for abandoned sites do nothing to further protect the environment. Enforcement action at the inspector level has already proven ineffective to compel abatement of violations or to achieve reclamation. As a result, manpower is wasted which could be applied to operations where enforcement would achieve the intended results. For example, OSMRE conducts approximately 2,900 inspections per year at 236 abandoned sites in Tennessee comprising approximately 32 percent of all required inspections. Yet, few if any abandoned sites are reclaimed because of these inspections.

For the above reasons, OSMRE proposes to amend its rules on the inspection of abandoned sites.

III. Discussion of Proposed Rule

Section 840.11

Proposed § 840.11(g) would define an "abandoned site" as a surface coal mining and reclamation operation for which the regulatory authority has found in writing that all the following criteria apply. The written finding would have to include sufficient detail to support the conclusions reached.

(1) Proposed § 840.11(g)(1) would require that all surface and underground coal mining and reclamation activities at the site have ceased and are unlikely to resume. The regulatory authority would have to explain in its written finding the basis for its determination that a site has been abandoned. That basis may include a series of inspections; discussions with the operator; affidavits based on personal knowledge; the regulatory authority's inability to serve citations; legal notices of bankruptcy, auctions, etc.; or other available information.

(2) Proposed § 840.11(g)(2) would ensure that the regulatory authority has tried to compel correction of violations through enforcement at the inspector level. Before classifying a site as abandoned, the proposed rule would require the regulatory authority or OSMRE to have issued at least one notice of violation or the initial program equivalent and have been unable to serve it, despite diligent efforts, or, if the notice of violation was served, it has progressed to a failure to abate cessation order requiring the operation to cease and reclamation to commence.

(3) Proposed § 840.11(g)(3) would require the regulatory authority to consider all viable alternative enforcement options in cases where the failure to abate cessation order remains unabated for more than 30 days, and to take those appropriate to compel compliance before classifying the site as abandoned. *See 30 CFR 845.15(b)(2).* When the regulatory authority could not serve the notice of violation, and therefore no failure to abate cessation order could be issued, there would be no requirement under the proposed rule to have considered alternative enforcement options, because lacking a failure to abate cessation order, there would be no basis under 30 CFR 845.15(b)(2) for doing so.

Such alternative enforcement options may include a suit for injunctive relief, a criminal prosecution, suspension or revocation of a subsequent erroneously issued permit, assessment of individual civil penalties, or performance bond forfeiture, and in all cases must include blocking new permits. Where the regulatory authority concludes that alternative enforcement would offer little or no likelihood of compelling abatement or recovering reclamation costs, and documents the basis for that finding, it would not have to have pursued such efforts, other than to continue blocking new permits to related entities. Examples of alternative enforcement efforts which may be futile include cases where the regulatory authority has diligently tried and failed to locate the operator, or where, after reviewing his assets, including the potential distributions from bankruptcy, it determines that further actions would be ineffective.

(4) To be classified as an abandoned site, proposed § 840.11((g)(4) would require that the permit have expired or have been revoked. If such is the case, the operator no longer can mine legally at the site. The proposed rule would require the regulatory authority to diligently seek forfeiture of any performance bond or to have forfeited the performance bond before classifying a site as abandoned. Forfeiture of the performance bond is intended to ensure that money will be available for reclamation. OSMRE expects that the regulatory authority will promptly initiate formal bond forfeiture proceedings under the applicable program as soon as it is aware that a site has been abandoned, and that it will diligently pursue each stage of that proceeding to completion.

When the regulatory authority determines in writing that a site meets all the above criteria, proposed § 840.11(h) would require inspection of those sites only as is necessary to monitor for changes of environmental conditions or operational status at the site. Thus the inspection frequences established in § § 840.11 (a) and (b) would not apply to abandoned sites. OSMRE considered annual and other periodic inspection alternatives, but tentatively has rejected them because no periodic frequency would appear to be effective toward compelling the operator to reclaim the site. OSMRE believes that the regulatory authority should have discretion to determine the inspection frequency for each abandoned site, based on particular environmental conditions.

As pointed out elsewhere in this preamble, continued enforcement actions taken at the inspector level are ineffective to compel correction of violations or to achieve reclamation at abandoned sites. Such enforcement actions often lead to unabated cessation orders for which civil penalties must be assessed, collection actions undertaken and, all too frequently, delinquent debt accrues. OSMRE questions the utility of further enforcement actions after the State regulatory authority has classified a site as abandoned. Once a site met all the criteria of the proposed rule, the regulatory authority would be doing all that it could under the alternative enforcement provisions of the State program to compel compliance.

Therefore, OSMRE proposes not to require further enforcement actions be taken while a site remains in abandoned status, so long as abatement of any newly observed violation may be required as part of the abatement of the notice of violation or cessation order already issued. For instance, if the original violation cited was for a general reclamation failure, such as a failure to restore the site to a condition capable of supporting pre-mining or higher or better uses, then abatement of a later observed violation could be subsumed within the abatement of the original violation. Public comments are specifically solicited with respect to this enforcement approach.

Section 842.11

Proposed § 842.11 would make the same changes for OSMRE as regulatory authority as it would make for the States as regulatory authorities, for the same reasons given in the discussion of § 840.11.

IV. Procedural Matters

Effect in Federal Program States and on Indian Lands

Proposed § 842.11 would apply through cross-referencing in those States with Federal programs. These include Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947 respectively. The proposed rule would also apply through cross-referencing to Indian lands under Federal programs as provided in 30 CFR Part 750. Comments are specifically solicited as to whether unique conditions exist in any of these States or on Indian lands which should be reflected as changes to the national rules or as specific amendments to any or all of the Federal programs or the Indian lands program.

Federal Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

Executive Order 12291 and Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under the criteria of Executive Order 12291 (February 17, 1981) and has determined that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The rule does not distinguish between small and large entities. This determination is based on the findings that the regulatory additions proposed by this rule would serve to reduce the costs potentially incurred by OSMRE and State regulatory authorities in making routine inspections of abandoned sites. Therefore, the rule should not add to the cost of operating a mine in compliance with an approved regulatory program.

National Environmental Policy Act

OSMRE has prepared a draft environmental assessment (EA) of the proposed rule and has made a tentative finding that it would not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The draft EA is on file in the OSMRE Administrative Record at the address previously specified (see "**ADDRESSES**"). A final EA will be completed and a final findings made on the significance of any resulting impacts prior to the promulgation of a final rule.

Author

The principal authors of this rule are Daniel Stocker, assisted by Betty Buxton, Division of Regulatory Programs; and Hugo Fleischman, Regulatory Development and Issues Management Staff, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone 202–343–5385. (Commercial or FTS)

List of Subjects

30 CFR Part 840

Intergovernmental relations, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 842

Law enforcement, Surface mining, Underground mining. Accordingly, OSMRE proposes to amend 30 CFR Parts 840 and 842 as set forth below:

Dated: July 21, 1987.

J. Steven Griles,

Assistant Secretary for Land and Minerals Management.

PART 840—STATE REGULATORY AUTHORITY—INSPECTION AND ENFORCEMENT

1. The authority citation for Part 840 is revised to read as follows:

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, and Pub. L. 100–34, unless otherwise noted.

2. Section 840.11 is amended by adding the following new paragraphs (g) and (h) to read as follows:

§ 840.11 Inspections by State regulatory authority.

* * * * *

(g) *Abandoned site* means a surface coal mining and reclamation operation for which the regulatory authority has found in writing that all of the following criteria apply:

(1) All surface and underground coal mining and reclamation activities at the site have ceased and are unlikely to resume;

(2) The regulatory authority or the Office has issued at least one notice of violation or the initial program equivalent, and either (i) is unable to serve the notice despite diligent efforts to do so, or (ii) the notice was served and has progressed to a failure to abate cessation order or the initial program equivalent;

(2) The regulatory authority is pursuing alternative enforcement measures provided under the regulatory program except where, after evaluating the circumstances, it concludes that further enforcement offers little or no likelihood of successfully compelling abatement or recovering any reclamation costs; and

(4) Where the site was permitted and bonded, the permit has expired or been revoked and the regulatory authority is diligently pursuing forfeiture of the performance bond or has forfeited the performance bond.

(h) In lieu of the inspection frequency established in paragraphs (a) and (b) of this section, the regulatory authority shall inspect each abandoned site as necessary to monitor for changes of environmental conditions or operational status at the site.

PART 842—FEDERAL INSPECTIONS AND MONITORING

1. The authority citation for Part 842 is revised to read as follows:

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, and Pub. L. 100–34, unless otherwise noted.

2. Section 842.11 is amended by adding the following new paragraphs (e) and (f) to read as follows:

§ 842.11 Federal inspections and monitoring.

* * * * *

(e) *Abandoned site* means a surface coal mining and reclamation operation for which the Office has found in writing that all of the following criteria apply:

(1) All surface and underground coal mining and reclamation activities at the site have ceased and are unlikely to resume;

(2) The Office has issued at least one notice of violation or the initial program equivalent, and either (i) is unable to serve the notice despite diligent efforts to do so, or (ii) the notice was served and has progressed to a failure to abate cessation order or the initial program equivalent;

(3) The Office is pursuing alternative enforcement measures provided under the regulatory program except where, after evaluating the circumstances, it concludes that further enforcement offers little or no likelihood of successfully compelling abatement or recovering any reclamation costs; and

(4) Where the site was permitted and bonded, the permit has expired or been revoked and the Office is diligently pursuing forfeiture of the performance bond or has forfeited the performance bond.

(f) In lieu of the inspection frequencies established in paragraph (c) of this section, the Office shall inspect each abandoned site as necessary to monitor conditions or changes of status at the site.

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federal register

Friday
August 28, 1987

Part VIII

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 780 and 784

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Surface Mining Permit Applications; Underground Mining Permit Applications; Proposed Rule

DEPARTMENT OF THE INTERIOR

30 CFR Parts 780 and 784

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Surface Mining Permit Applications; Underground Mining Permit Applications

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) of the United States Department of the Interior (DOI) is proposing new regulations to define the content and scope of probable hydrologic consequences (PHC) determinations for surface and underground coal mining permit applications. The regulations are being proposed to provide guidance to regulatory authorities and operators regarding the extent of hydrologic information and findings required in permit applications. The effect of the rules will be to establish a standard for the protection of hydrologic resources that is consistent with the provisions of section 507(b)(11) of the Surface Mining Control and Reclamation Act of 1977.

DATES:

Written comments: OSMRE will accept written comments on the proposed rule until 5:00 p.m. Eastern time on November 6, 1987.

Public hearings: Upon request, OSMRE will hold public hearings on the proposed rule in Washington, DC; Denver, Colorado; and Knoxville, Tennessee at 9:30 a.m. local time on October 30, 1987. Upon request, OSMRE will also hold public hearings in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington at times and on dates to be announced prior to the hearings. OSMRE will accept requests for public hearings until 5:00 p.m. Eastern time on September 28, 1987. Individuals wishing to attend but not testify at any hearings should contact the person identified under **"FOR FURTHER INFORMATION CONTACT"** beforehand to verify that the hearing will be held.

ADDRESSES:

Written comments: Hand-deliver to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131, 1100 L St., NW., Washington, DC; or mail to the Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5131A–L, 1915 Constitution Avenue, NW., Washington, DC 20240.

Public Hearings: Department of the Interior Auditorium, 18th and C Streets, NW., Washington, DC; Brooks Towers, 2nd Floor Conference Room, 1020 15th St., Denver, Colorado; and the Hyatt House, 500 Hill Avenue, SE., Knoxville, Tennessee. The addresses for any hearings scheduled in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington will be announced prior to the hearings.

Request for public hearings: Submit orally or in writing to the person and address specified under **"FOR FURTHER INFORMATION CONTACT."**

FOR FURTHER INFORMATION CONTACT: Douglas Growitz, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–343–1507 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written Comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where practicable, commenters should submit three copies of their comments (see **"ADDRESSES"**). Comments received after the close of the comment period or delivered to addresses other than those listed above (see **"DATES"**) may not be considered or included in the Administrative Record for the final rule.

Public Hearings

OSMRE will hold public hearings on the proposed rule on request only. The times, dates and addresses scheduled for the hearings at three locations are specified previously in this notice (see **"DATES"** and **"ADDRESSES"**). The times, dates and addresses for the hearings at the remaining locations have not yet been scheduled, but will be announced in the **Federal Register** at least 7 days prior to any hearings which are held at these locations.

Any person interested in participating at a hearing at a particular location should inform Mr. Growitz (see **"FOR FURTHER INFORMATION CONTACT"**) either orally or in writing of the desire hearing location by 5:00 p.m. Eastern time, September 28, 1987. If no one has contacted Mr. Growitz to express an interest in participating in a hearing at a given location by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSMRE requests that persons who testify at a hearing give the transcriber a copy of their testimony. To assist OSMRE in preparing appropriate questions, OSMRE also requests that persons who plan to testify submit to OSMRE at the address previously specified for the submission of written comments (see **"ADDRESSES"**) an advance copy of their testimony.

II. Background

Statutory Provisions

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act), provides for the submission of specific hydrologic information and findings in permit applications for both surface and underground proposed mining operations. Specifically, section 507(b)(11) of the Act, 30 U.S.C. 1257(b)(11), requires that each application contain, among other things, "a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the regulatory authority of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability: *Provided, however,* that this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate Federal or state agency: *Provided further,* that the permit shall not be approved until such information is available and is incorporated into the application * * *."

The two requirements embodied in section 507(b)(11) include an assessment of the probable hydrologic consequences (PHC) prepared by the applicant and sufficient data so that the regulatory authority (RA) would be able to prepare a cumulative hydrologic

impact assessment (CHIA). The purpose of these provisions is to ensure that the applicant has evaluated the impact of the proposed operation on existing hydrologic conditions, both on and off the mine site, and that the regulatory authority has sufficient information to perform an assessment of the probable cumulative hydrologic impacts of all anticipated mining in the area.

History of the Rule

OSMRE has promulgated rules for this section of the Act on two separate occasions. Permanent program rules for PHC determinations were first promulgated on March 13, 1979 (44 FR 15360 and 15367). OSMRE used the term "mine plan area" in defining the areal scope of the PHC determination. The rules required the reclamation plan to contain a description of the determination of the PHC on the proposed mine plan area and adjacent area at 30 CFR 780.21(c) for proposed surface mining activities and at 30 CFR 784.14(c) for proposed underground mining activities.

In *In Re: Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C. 1980), the use of the term "mine plan area" in § 780.21(c) was challenged on the basis that it required mining companies to supply information for areas outside of the permit area and to cover the entire life of the mining area whereas the Act only requires this type of expansive information in limited situations.

The district court concluded that section 507 of the Act consistently referred to "specific land mined or the immediate permit area" and thus did not require information from outside the permit area. *In Re: Permanent Surface Mining Regulation Litigation*, No. 79–1144 (D.D.C. Feb. 26, 1980). The court remanded the definition of *mine plan area*, suspended the term as found in Parts 779, 780, 783 and 784, and directed the Secretary to revise the term in accordance with the informational requirements of the Act.

The Secretary sought clarification of the court's February 26, 1980, opinion with respect to whether the suspension of the term *mine plan area* affected those provisions of the rules containing informational requirements whose statutory basis requires information about areas both on and off the mine site; or over the estimated life of the mining operation. The court noted in its May 16, 1980, opinion that some of the provisions in Parts 779, 780, 783, and 784 using the term *mine plan area* may properly derive expansive information requirements from other sections of the Act. However, the court referred the question to further rulemaking and the process of public notice and comment. *In Re: Permanent Surface Mining Regulation Litigation*, No. 79–1144, slip op. at 57–58 (D.D.C. May 16, 1980).

To comply with the court's decision and to reorganize and consolidate hydrologic requirements scattered throughout the rules, OSMRE proposed new hydrology rules for surface and underground operations (47 FR 27712, June 25, 1982). The rules for PHC proposed at § 780.21 for surface mining permit applications and at § 784.14 for underground mining permit applications used the term "permit area," defined in the Act, in lieu of the suspended term "mine plan area." The Secretary's final regulations on PHC were published in the **Federal Register** on September 26, 1983. The final rule at 30 CFR 780.21(f) for surface mining permits and at 30 CFR 784.14(e) for underground mining permits retained the term "permit area" within the context of the phrase "permit and adjacent areas" in defining the areal scope of the PHC determination.

Plaintiffs in *In Re: Permanent Surface Mining Regulation Litigation (II), Round III*, No. 79–1144 (D.D.C. July 15, 1985) (hereafter *In Re: Permanent II)* challenged the Secretary's 1983 rules on PHC contending that they wrongly limited the operator's information and analysis requirements regarding hydrologic impacts to activities conducted during the "life of the permit" as opposed to the "life of the mine." The plaintiffs further contended that unless the PHC contained a life of mine analysis as opposed to what they perceived as a life of permit analysis, the RA would be unable to develop an adequate CHIA.

The court remanded the rules on procedural grounds (*In Re: Permanent II* at 16). In its decision, the court stated that (1) the plain language of the Act does not require the operator's PHC determination to be limited to activities conducted during the permit period; and (2) the preamble to the final rule did not explain why a life-of-mine analysis was not required. The court found that including a life-of-mine analysis in the PHC was not precluded by the Act, and invited the Secretary to explain why the life-of-mine analysis should be in the CHIA as opposed to the PHC.

As a result of the court's decision, OSMRE suspended the PHC rules at 30 CFR 780.21(f) for surface mining permit applications and at 30 CFR 784.14(e) for underground mining permit applications (51 FR 41957, November 20, 1986). OSMRE has reexamined the rules in light of the court's decision, as well as the legislative history of the Act, the administrative history of these rules, and comments on rule options from citizen and environmental groups, industry trade associations, and State regulatory authorities. As a result, OSMRE proposes to amend §§ 780.21 and 784.14 of its permanent program rules, as discussed below.

III. Discussion of Proposed Rule

A. Sections 780.21 and 784.14 Hydrologic Information

OSMRE is proposing rules on the content and scope of PHC determinations required in permit applications for surface and underground mining operations. The rules proposed at 30 CFR 780.21(f) for surface mining permit applications and at § 784.14(e) for underground mining permit applications are identical to the final rules promulgated on September 26, 1983, and subsequently suspended. OSMRE has reviewed the legislative history of the Act, the administrative record of the rule, and the opinions of the court, and proposes that these rules are the best method for implementing the requirements of section 507(b)(11) of the Act, for the reasons discussed below.

Scope of PHC

The Act at section 507(b)(11) sets out the extent of the PHC determination in terms of land area, not duration. In defining the area for which the applicant for a surface or underground mining permit will provide the PHC determination, section 507 uses the phrase "on and off the mine site." OSMRE proposes to limit the scope of the PHC determination to the "permit and adjacent areas," as defined at 30 CFR 701.5 of the permanent program regulations, to define the areal scope of the PHC. This phrase has a spatial significance equivalent to the language of the Act. On the other hand, the phrases "life of permit" or "life of mine," as used by the plaintiffs in *In Re: Permanent II*, have temporal significance and are inappropriate in implementing the PHC requirements of section 507(b)(11) of the Act.

Although the boundaries of the permit area are designated in the permit application and are fixed for each proposed mining operation, the boundaries of the adjacent area, by design, remain flexible and can expand or contract in response to the need to evaluate adverse hydrologic impacts resulting from or reasonably expected to result from the proposed mining operation. There are no restrictions or limitations on the areal scope of the PHC determination. This approach

would provide for detailed and technically sound evaluations of the hydrologic impacts of the proposed mining operation based on site-specific conditions.

Relationship Between PHC and CHIA

The linkage between the PHC determination and CHIA articulated by Congress in section 507(b)(11) of the Act is based specifically on data, and not on findings or interpretations. Congress requested the "collection of sufficient data" so that the RA could develop the assessment of cumulative hydrologic impacts (CHIA), but directed that the data would not be required from the applicant until "hydrologic information on the general area" was available from appropriate Federal or State agencies. Congress also directed that the permit application incorporate this hydrologic information before it could be approved. The language of this section clearly distinguishes the responsibilities of the applicant, which are to assess the PHC on the permit and adjacent areas and provide data on the mine site and surrounding areas, from the responsibility of the RA, which is to utilize these and other hydrologic data to assess cumulative impacts of all anticipated mining in the area.

The Act is relatively specific regarding what must be evaluated by the applicant in the PHC determination (quality, quantity, surface water, ground water, dissolved and suspended solids, seasonal flow). Furthermore, the PHC findings are highly site specific and are based upon the proposed operation and reclamation plan. The purpose of the PHC could actually be severely compromised or even defeated if impacts not resulting from the proposed operation and reclamation plan must also be considered.

The application for a mining permit does not contain detailed information and mining plans for areas of possible future mining beyond the permit area. Lack of information about potential mining operations beyond the permit area dilutes the precision of technical predictions needed for an adequate PHC. OSMRE does not believe it to be reasonable or technically sound to require an applicant to evaluate impacts on the hydrologic balance of possible future extensions to the proposed operation in the detail required for a PHC determination. Instead, such an analysis must be conducted before such areas can be mined and included in a future permit application for those areas.

In contrast to hydrologic parameters specified for PHC, the Act is general in its guidance to RAs regarding parameters to be evaluated in the CHIA. This is a strong indication that Congress envisioned the two hydrologic evaluations to be fundamentally different. As a result, the RA has the prerogative of "defining" the content of the CHIA according to the hydrologic concerns within its jurisdiction. This approach reflects the flexibility that Congress granted RAs in protecting water resources.

OSMRE believes that the collection of sufficient hydrologic data by the applicant, as required by the Act, is implemented appropriately by these proposed rules and the rules on CHIAs already in place at 30 CFR 780.21 (c) and (g) and 784.14 (c) and (f). This information, together with information from Federal and State agencies, will be sufficient to allow the RA to conduct the required CHIA. For example, as noted in the preamble to the 1979 final rules, hydrologic studies are being done by the U.S. Geological Survey (USGS) (44 FR 15029). Indeed, Congress has appropriated funds for the USGS to "be used to assemble hydrologic data required by the Surface Mining Control and Reclamation Act of 1977" for seven years beginning in Fiscal Year 1979. Over this period approximately 40 million dollars has been appropriated and used by the USGS to collect hydrologic data and develop reports for coal mining areas.

In sum, OSMRE believes that these proposed rules, along with existing rules for CHIA (§§ 780.21 (c) and (g) and 784.14 (c) and (f)) adequately provide for the applicant to collect sufficient data for the mine site and surrounding areas, and provide the RA with the flexibility to ensure that there are sufficient data to allow an assessment of cumulative impact on the hydrology of all anticipated mining in the area. The rules do not preclude the collection of area-wide information by the applicant. They allow the RA to determine the areal scope of the PHC and to require more information from the applicant as needed prior to permit issuance and whenever the permit is revised. OSMRE believes that these rules provide a reasonable and effective approach to the implementation of section 507(b)(11) of the Act.

IV. Procedural Matters

Effect in Federal Program States and on Indian Lands

The proposed rules apply through cross-referencing in those States with Federal Programs. This includes Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal Programs for these States appear at 30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, 942 and 947 respectively. The proposed rules also apply through cross-referencing to Indians lands under Federal programs for Indian lands as provided in 30 CFR Part 750. Comments are specifically solicited as to whether unique conditions exist in any of these States relating to this proposal which should be reflected either as changes to the national rules or as State-specific amendments to any or all of the Federal program.

Federal Paperwork Reduction Act

The information collection requirements in the proposed rule have been submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 *et seq.* The collection of this information will not be required until it has been approved by the Office of Management and Budget. The information is needed to meet the requirements of section 507(b)(11) of Pub. L. 95-87, and will be used by the regulatory authority to establish a sufficient baseline and to assess the impact of the proposed mining operation during the permanent regulatory program. The obligation to respond is mandatory.

Executive Order 12291

The DOI has examined the proposed rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not a major rule and does not require a regulatory impact analysis.

Regulatory Flexibility Act

The DOI has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the proposed rule will not have a significant economic impact on a substantial number of small entities. The rule is expected to ease the regulatory burden on small coal operators by giving the State regulatory authorities the discretion of adjusting the amount of information that will have to accompany a permit application on a case-by-case basis.

National Environmental Policy Act

OSMRE has prepared an environmental assessment (EA) of the impacts and the cumulative impacts on the human environment of this rulemaking and related rulemakings under the Act. Based on this EA, OSMRE has made a finding that this rule would not significantly affect the quality of the human environment under section 102(2)(C) of the National

Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C).

Author

The principal author of this rule is Douglas Growitz, Division of Permit and Environmental Analysis, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: 202–343–1507.

List of Subjects

30 CFR Part 780

Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 784

Reporting and recordkeeping requirements, Underground mining.

Accordingly, it is proposed to amend 30 CFR Parts 780 and 784 as set forth below.

Date: July 27, 1987.

J. Steven Griles,

Assistant Secretary for Land and Minerals Management.

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

1. The authority citation for Part 780 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended; Pub. L. 100–34; and 16 U.S.C. 470 *et seq.*

2. Section 780.21 is amended by revising paragraph (f) to read as follows:

§ 780.21 Hydrologic information.

* * * * *

(f) *Probable hydrologic consequences determination.* (1) The application shall contain a determination of the probable hydrologic consequences (PHC) of the proposed operation upon the quality and quantity of surface and ground water under seasonal flow conditions for the proposed permit and adjacent areas.

(2) The PHC determination shall be based on baseline hydrologic, geologic and other information collected for the permit application and may include data statistically representative of the site.

(3) The PHC determination shall include findings on:

(i) Whether adverse impacts may occur to the hydrologic balance;

(ii) Whether acid-forming or toxic-forming materials are present that could result in the contamination of surface or ground-water supplies;

(iii) Whether the proposed operation may proximately result in contamination, diminution or interruption of an underground or surface source of water within the proposed permit or adjacent areas which is used for domestic, agricultural, industrial, or other legitimate purpose; and

(iv) What impact the proposed operation will have on:

(A) Sediment yield from the disturbed area;

(B) Acidity, total suspended and dissolved solids, and other important water quality parameters of local impact;

(C) Flooding or streamflow alteration;

(D) Ground-water and surface-water availability; and

(E) Other characteristics as required by the regulatory authority.

(4) An application for a permit revision shall be reviewed by the regulatory authority to determine whether a new or updated PHC determination shall be required.

* * * * *

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

3. The authority citation for Part 784 is revised to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended; Pub. L. 100–34; and 16 U.S.C. 470 *et seq.*

4. Section 784.14 is amended by revising paragraph (e) to read as follows:

§ 784.14 Hydrologic information.

* * * * *

(e) *Probable hydrologic consequences determination.* (1) The application shall contain a determination of the probable hydrologic consequences (PHC) of the proposed operation upon the quality and quantity of surface and ground water under seasonal flow conditions for the proposed permit and adjacent areas.

(2) The PHC determination shall be based on baseline hydrologic, geologic and other information collected for the permit application and may include data statistically representative of the site.

(3) The PHC determination shall include findings on:

(i) Whether adverse impacts may occur to the hydrologic balance;

(ii) Whether acid-forming or toxic-forming materials are present that could result in the contamination of surface or ground-water supplies; and

(iii) What impact the proposed operation will have on:

(A) Sediment yield from the disturbed area;

(B) Acidity, total suspended and dissolved solids, and other important water quality parameters of local impact;

(C) Flooding or streamflow alteration;

(D) Ground-water and surface-water availability; and

(E) Other characteristics as required by the regulatory authority.

(4) An application for a permit revision shall be reviewed by the regulatory authority to determine whether a new or updated PHC shall be required.

* * * * *

[FR Doc. 87–19794 Filed 8–27–87; 8:45 am]

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federal register

Friday
August 28, 1987

Part IX

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Final Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Taking, Possession, Transportation, Sale, Purchase, Barter, Exportation and Importation of Wildlife and Plants; Final Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special migratory bird hunting regulations to be established for certain tribes on Federal Indian reservations, including Indian Territory, and ceded lands, for the 1987–88 hunting season. This season begins as early as September 1.

EFFECTIVE DATE: This rule takes effect on September 1, 1987.

ADDRESSES: Comments received on the proposed special hunting regulations and tribal proposals are available for public inspection during normal business hours in Room 536, Matomic Building, 1717 H Street, NW., Washington, DC. Communications regarding the documents should be addressed to Director (FWS/MBMO), Room 536, Matomic Building, U.S. Fish and Wildlife Service, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240 (202) 254–3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

In the July 7, 1987 **Federal Register** (52 FR 25419), the U.S. Fish and Wildlife Service (hereinafter the Service) proposed special migratory bird hunting regulations for the 1987–88 hunting season for certain Indian tribes, under the interim guidelines published for this purpose on September 3, 1985 (at 50 FR 35767). The guidelines were developed in response to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their full wildlife management authority to regulate all hunting by both tribal and nontribal members on their reservations. The guidelines include possibilities for: (1) On-reservation hunting by both tribal and nontribal members, with hunting by nontribal members on some reservations to take place within Federal frameworks, but on dates different from those selected by the surrounding State(s); (2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and (3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits. In all cases, the regulations established under the guidelines would have to be consistent with the closed season requirement mandated by the 1916 Migratory Bird Treaty with Canada. Tribes that desired special hunting regulations in the 1987–88 hunting season were requested in the January 16, 1987 **Federal Register** (52 FR 1942) to submit a proposal that included details on: (1) Requested season dates and other regulations to be observed; (2) harvest anticipated under the requested regulations; (3) methods that will be employed to measure or monitor harvest; (4) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would impact seriously on the migratory bird resource; and (5) tribal capabilities to establish and enforce migratory bird hunting regulations. No action is required if a tribe wishes to observe the hunting regulations that are established by the State(s) in which an Indian reservation is located.

Comments and Issues Concerning Tribal Proposals

1. Klamath Tribe, Chiloquim, Oregon

In a July 31, 1987 telephone conversation, Craig Bienz, tribal biologist, stated that the Klamath Tribe had decided to defer the request for special waterfowl hunting regulations for tribal members for the 1987–88 hunting season pending further planning and consultation. The Service had initiated consultation with the tribe regarding hunting by tribal members on lands within the boundaries of their former reservation, and other aspects of the tribal proposal described in the July 7, 1987 **Federal Register** (52 FR 25419).

2. Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin

As described in 52 FR 25421, the Great Lakes Indian Fish and Wildlife Commission (which represents various Chippewa Indian Tribes) again requested special off-reservation hunting regulations for tribal members in Michigan and Wisconsin, and for the first time, requested special regulations for tribal members on ceded lands in Minnesota. The proposed regulations in Michigan would permit tribal members a daily bag limit of one more Canada goose than is usually permitted by Federal and State regulations, but other tribal regulations would be the same as established by Michigan. The State and Service concurred with the request, and it is made final in this rule.

The Wisconsin Department of Natural Resources raised some objections to the proposed regulations. The chief concern related to the adverse effects that the early season might have on the State's program to establish breeding populations of Canada geese, particularly on the Powell Marsh, where tribal members have hunted in the past. The Service has consulted further with both parties, and believes that the final regulations now adopted in this rule are a reasonable compromise that will permit tribal members to exercise their off-reservation hunting rights while providing appropriate safeguards against excessive harvest or displacement of resident geese. The Service notes that, if requested by Wisconsin officials, the Great Lakes Indian Fish and Wildlife Commission will provide technical assistance in daily censusing of geese on the Powell Marsh.

In an April 30, 1987 letter, the Minnesota Department of Natural Resources stressed that Minnesota is not bound by the *Voigt* decision that recognized off-reservation hunting rights in Wisconsin, and indicated that the State will not recognize Chippewa Indian hunting rights in Minnesota's treaty area until a court with jurisdiction over the State acknowledges and defines the extent of the rights involved. On May 28, 1987, Service representatives met jointly with officials from the Great Lakes Indian Fish and Wildlife Commission and the State in an effort to reach an agreement for special regulations that would apply to ceded lands in Minnesota. However, in a letter received by the Service on June 25, 1987, Minnesota reaffirmed its opposition to the special season. In a July 23, 1987 letter, the Mille Lacs Band of Chippewa Indians urged the Service to recognize

specific off-reservation regulations for Chippewa Indians in Minnesota. In his letter, Don Wedll, Mille Lacs Commissioner of Natural Resources, agreed with the Service's position that there was no biological reason to oppose the special season. Mr. Wedll also stated his belief that even though the State of Minnesota has authority under the 1918 Migratory Bird Treaty Act, tribal treaty rights were not explicitly placed under State authority within the Act and therefore remain separate and distinct.

As noted in 52 FR 25421, the United States Government has recognized the Indian hunting rights decided in the *Voigt* case, and the Service has negotiated acceptable hunting regulations in both Michigan and Wisconsin, even though the *Voigt* decision did not specifically address ceded lands outside Wisconsin. The Service views this as appropriate because the treaties construed by the Seventh Circuit Court of Appeals in *Voigt* cover ceded lands in Michigan (and Minnesota), as well as in Wisconsin. The Service has concluded that the tribal harvest in Minnesota likely will be too small to have an adverse effect on the migratory bird resource, and in view of this and the *Voigt* decision, has established final Federal regulations in this rule to allow for a special season for Chippewa Tribal members on certain ceded lands in Minnesota. However, the Service realizes that this issue is complex and that Minnesota may choose to consider whether a conservation need exists for more restrictive measures under State law.

3. Shoshone-Bannock Tribes, Fort Hall Indian Reservation, Fort Hall, Idaho

Prior to the 1986–87 hunting season, and following consultation with tribal and Idaho officials, the Service established duck hunting regulations in a zone that included the Fort Hall Indian Reservation and surrounding off-reservation lands. The hunting season dates were different from those in the remainder of the State and were established at the request of the tribes and with the concurrence of the State. The Service approved the request because it seemed likely that the delayed opening date and continuous season requested by the tribes would provide some additional protection to pintails and mallards, whose numbers have declined markedly in recent years. The tribes have again asked for a delayed opening of the duck season and requested that the goose season also open on the same date. The Service has no objection to this request, and the regulations are made final in this rule. It should be noted, however, that Idaho may wish to establish hunting regulations in the same surrounding off-reservation portion of the zone that was approved for the 1986–87 hunting season. The Service has no objection to the continued use of this zone, provided that waterfowl hunting season dates are the same as on the Fort Hall Indian Reservation.

4. Confederated Salish-Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana

Since publication of 52 FR 25419, the Service has been in communication with the Confederated Salish-Kootenai Tribes and the Montana Department of Fish, Wildlife and Parks regarding migratory bird hunting regulations for nontribal members on the Flathead Indian Reservation. The tribes have requested the same waterfowl regulations as will be established by Montana in the Pacific Flyway portion of the State but do not wish to permit hunting of common snipe and mourning doves in the upcoming season. In an August 14, 1987 letter, the Montana Department of Fish, Wildlife and Parks, did not concur with the tribes' request to close the reservation to hunting of snipe and doves, stressing that there is no conservation need to do so. In his letter, James W. Flynn, Director, indicated that both the State of Montana and the Confederated Tribes assert jurisdiction in regard to fish and wildlife regulation within the boundaries of the reservation. He stated that this issue has yet to be finally resolved, either by judicial decision or by other means.

The interim guidelines employed by the Service to evaluate tribal requests for special migratory bird hunting seasons make it clear that, in the absence of a court decision, agreement, or other authority, State concurrence is required before the Service can approve a tribal request for regulations that would permit nontribal members to hunt on an Indian reservation on dates that differ from those established by the State in which the reservation is located. There is a particular need for tribal and State agreement on reservations where large acreages are owned by non-Indians (as is the case on the Flathead Indian Reservation). In light of the 1981 Supreme Court decision (*Montana* v. *United States*), which casts substantial doubt upon whether the Salish-Kootenai Tribes have full wildlife management authority on a significant portion of their reservation, and in the absence of State concurrence with the tribes' request, the Service finds that special regulations for nontribal hunters on the Flathead Reservation should not be adopted for the 1987–88 hunting season. Nevertheless, recognizing the complexity of the issue, the Service will, if requested, consult further with tribal and State officials with the aim of reaching a mutually acceptable agreement on migratory bird hunting issues. In the meantime, in the August 24, 1987 **Federal Register** (52 FR 31773) the Service has announced mourning dove season dates and bag limits selected by the State of Montana, and a later final rule will announce the regulations established by Montana under final Federal frameworks for snipe and waterfowl hunting seasons in the State. Whether or not mourning doves and snipe will be hunted on the reservation should be decided by the tribes and State. The Service notes that they were not hunted on the reservation last year, even though Federal regulations permitted a season.

Nontoxic Shot Regulations

On January 15, 1987 (52 FR 1636), the Service proposed nontoxic shot zones for the 1987–88 waterfowl hunting season. This proposed rule was sent to all affected tribes and to Indian organizations for comment. The final rule on nontoxic shot zones was published in the July 21, 1987 **Federal Register** (52 FR 27352), and it was effective on that date. Waterfowl hunters are advised to become familiar with tribal regulations regarding the use of nontoxic shot for hunting of waterfowl, coots, and certain other species in the 1987–88 hunting season. Attention is also directed to the July 21, 1987 **Federal Register** (52 FR 27352) which gave notice that if nontoxic shot zones are not approved when current Service guidelines and criteria indicate such zones are necessary to protect migratory birds, the Secretary of the Interior, acting through the Service, will not open those areas to hunting of waterfowl, coots, and certain other species.

NEPA Consideration

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES 75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the **Federal Register** on June 13, 1975 (40 FR 25241). In addition, an August 1985 environmental assessment entitled "Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands" is available from the Service.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" [and shall] "insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *." Consequently, the Service initiated Section 7 Consultation under the Endangered Species Act for the proposed hunting season on Federal Indian reservations and ceded lands.

On August 3, 1987, the Office of Endangered Species notified the Office of Migratory Bird Management of its concurrence with the finding that the proposed action will not affect any listed or any critical habitat.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

In the **Federal Register** dated March 13, 1987 (52 FR 7900), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291, and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available on request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. These regulations contain no information collections subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980.

Memorandum of Law

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the **Federal Register** dated August 3, 1987 (52 FR 28719).

Authorship

The primary author of this final rule is Fant W. Martin, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed hunting regulations for certain tribes were published on July 7, 1987, the Service established the longest period possible for public comment. In doing this, the Service recognized that time would be of the essence. The comment period provided the maximum amount of time possible while ensuring that a final rule was published before the beginning of the hunting season on September 1, 1987.

Therefore, under the authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 *et seq.*), the Service prescribes final hunting regulations for certain tribes on Federal Indian reservations (including Indian Territory), and ceded lands. The regulations specify the species to be hunted and establish season dates, bag and possession limits, season length, and shooting hours for migratory game birds other than waterfowl. However, final Federal framework for the waterfowl hunting season (opening and closing framework dates, daily bag and possession limits, etc.) are planned for publication on September 8, 1987. Because it was necessary to publish this document by September 1, 1987, most waterfowl regulations for the tribes listed here are shown as "within final Federal framework to be established."

The Service finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and this final rule will therefore, take effect on September 1, 1987.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

Accordingly, 50 CFR Part 20 is amended as follows:

For the reasons set out in the preamble, Title 50, Chapter I, Subchapter B, Part 20, Subpart K, is amended as set forth below.

PART 20—[AMENDED]

1. The authority citation for Part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act sec. 3, Pub. L. 65–186, 40 Stat. 755 (16 U.S.C. 701–708h); sec. 3(h), Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712); Alaska Game Act of 1925, 43 Stat. 739, as amended, 54 Stat. 1103–1104.

[Editorial Note.—The following annual hunting regulations provided for by § 20.110 of 50 CFR Part 20 will not appear in the Code of Federal Regulations because of their seasonal nature].

2. Section 20.110 is revised to read as follows:

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

(a) Penobscot Indian Nation, Penobscot Indian Territory, Old Town, Maine (tribal members and nonmembers).

(1) *Ducks.*[1] Same season dates, season length, and daily bag and possession limits as regular duck season in Maine.

(2) *Geese.*[2] Same season dates, season length, and daily bag and possession limits as regular duck season in Maine.

(3) *General conditions.* (i) Tribal members may hunt waterfowl (ducks and geese) on Penobscot Indian Territory under special sustenance regulations during the 1987–88 hunting season. Sustenance season dates are September 19 through November 30). Daily bag limits for ducks in the sustenance season are 4, of which no more than 1 can be black duck and no more than 2 can be wood ducks. Where sustenance and the regular State hunting seasons overlap, daily bag limits for tribal members shall be only the larger of the two bag limits. Daily bag limits for geese during the sustenance season shall be 3 Canada geese, 3 snow geese, or 3 in the aggregate.

(ii) Possession of ducks and geese during the tribal sustenance season are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's residence.

(iii) Tribal members shall comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking, except that during the sustenance season, tribal members shall be permitted to hunt from ½ hour before sunrise to ½ hour after sunset.

(iv) All tribal and nontribal waterfowl hunters 16 years of age or over must possess and carry on their persons a valid Migratory Bird Hunting and Conservation Stamp, or duck stamp, signed in ink across the face.

(v) Nontribal members hunting waterfowl on Penobscot Indian Territory shall comply with all Federal and State migratory bird hunting regulations. Special regulations established by the Penobscot Indian

[1] Final Federal framework to be established.

[2] See footnote 1 to paragraph (a)(1).

Nation also apply on Penobscot Indian Territory.

(b) Navajo Indian Reservation, Window Rock, Arizona (tribal members and nonmembers).

(1) *Ducks (including Mergansers).*[3]

Season dates: October 10 through December 6.

Daily bag and possession limits: Same as permitted Pacific Flyway States under final Federal frameworks.

(2) *Canada geese (season closed on other geese).*[4]

Season dates: December 26 through January 10.

Daily bag and possession limits: Same as permitted Arizona, New Mexico, and Utah under final Federal frameworks.

(3) *Other migratory game birds.*

(i) *Coots and Common Moorhens (Gallinule).*[5]

Season dates: October 10 through December 6.

Daily bag and possession limits: Same as permitted Pacific Flyway States under final Federal frameworks.

(ii) *Mourning doves.*

Season dates: September 1 through September 30.

Daily bag and possession limits: 10 daily. Possession limit 20.

(iii) *Band-tailed Pigeons.*

Season dates: September 1 through September 30.

Daily bag and possession limits: 5 daily. Possession limit 10.

(4) *General conditions.* Tribal and nontribal members will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his person a valid Migratory Bird Hunting and Conservation Stamp, or duck stamp, signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

(c) Jicarilla Indian Reservation, Dulce, New Mexico (tribal members and nonmembers).

(1) *Ducks (including Mergansers).*[6]

Season Dates: Earliest opening date permitted Pacific Flyway States under final

Federal frameworks—November 30.

Daily bag and possession limits: Same as permitted Pacific Flyway States under final Federal frameworks.

(2) *Goose season closed on all species.*

(3) *General conditions.* Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his person a valid Migratory Bird Hunting and Conservation Stamp, or duck stamp, signed in ink across the face. Special regulations established by the Jicarilla Apache Tribe also apply on the reservation.

(d) *Colorado River Indian Reservation, Parker, Arizona (tribal members and nonmembers).*

(1) *Ducks (including Mergansers).*[7]

Season dates: Same as Colorado River Zone in California.

Daily bag and possession limits: Same as Colorado River Zone in California.

(2) *Geese.*[8]

Season dates: Same as Colorado River Zone in California.

Daily bag and possession limits: Same as Colorado River Zone in California.

(3) *Other migratory game birds.*

(i) *Coots and Common Moorhens (Gallinule).*[9]

Season dates: Same as for ducks in Colorado River Zone in California.

Daily bag and possession limits: Same as Colorado River Zone in California.

(ii) Common (Wilson's) Snipe.[10]

Season dates: Same as for ducks in Colorado River Zone in California.

Daily bag and possession limits: Same as Colorado River Zone in California.

(iii) *Mourning Doves and White-winged Doves.*[11]

Season dates: Same as Colorado River Zone in California.

Daily bag and possession limits: Daily bag limit is 10 and possession limit is 20, singly or in the aggregate of the two species.

(4) *General conditions.* Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his person a valid Migratory Bird Hunting and Conservation Stamp, or duck stamp, signed in ink across the face. Special regulations established by the Colorado River Indian Tribes also apply on the reservation.

(e) Fort Apache Indian Reservation, Whiteriver, Arizona (tribal members and nonmembers).

(1) *Ducks (including Mergansers).*[12]

Season dates: Latest closing date and longest season permitted Pacific Flyway States under final Federal frameworks.

Daily bag and possession limits: Same as permitted Pacific Flyway States under final Federal frameworks.

(2) *Geese.*[13]

Season dates: Latest closing date and longest season permitted Arizona under final Federal frameworks.

Daily bag and possession limits: Same as permitted Arizona under final Federal frameworks.

(3) *Other migratory game birds.*

(i) *Coots and Common Moorhens (Gallinule).*[14]

Season dates: Same as for ducks.

Daily bag and possession limits: Same as permitted Pacific Flyway States under final Federal frameworks.

(ii) *Common (Wilson's) Snipe.*

Season dates: Same as for ducks.

Daily bag and possession limits: 8 daily. Possession limit 16.

(iii) *Mourning Doves.*

Season dates: September 1–13 and November 27 through December 28.

Daily bag and possession limits:

September 1–13: Daily bag limit is 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves. Possession limit is 20, of which no more than 12 may be white-winged doves.

November 27 through December 28: 10 mourning doves only daily possession limit 20.

(iv) *White-winged Doves.*

Season dates: September 1–13.

Daily bag and possession limits: 6 daily. Possession limit 12.

(v) Band-tailed Pigeons.

Season dates: October 9 through November 7.

Daily bag and possession limits: 5 daily. Possession limit 10.

(4) *General conditions.* Tribal and nontribal members will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his person a valid Migratory Bird Hunting and Conservation Stamp, or duck stamp, signed in ink across the face. Special regulations established by the White Mountain Apache Tribe also apply on the reservation.

(f) Fort Hall Indian Reservation, Fort Hall, Idaho (nontribal members only).

(1) *Ducks (including Mergansers).*[15]

Season dates: Begin continuous season on October 10, with same season length as permitted Pacific Flyway States under final Federal frameworks.

[3] See footnote 1 to paragraph (a)(1).
[4] See footnote 1 to paragraph (a)(1).
[5] See footnote 1 to paragraph (a)(1).
[6] See footnote 1 to paragraph (a)(1).
[7] See footnote 1 to paragraph (a)(1).
[8] See footnote 1 to paragraph (a)(1).
[9] See footnote 1 to paragraph (a)(1).
[10] See footnote 1 to paragraph (a)(1).
[11] See footnote 1 to paragraph (a)(1).
[12] See footnote 1 to paragraph (a)(1).
[13] See footnote 1 to paragraph (a)(1).
[14] See footnote 1 to paragraph (a)(1).
[15] See footnote (1) to paragraph (a)(1).

Daily bag and possession limits: Same as permitted Pacific Flyway States under final Federal frameworks.

(2) *Geese (Canada, Blue, Snow, White-fronted Geese, Black Brant).*

Season dates: Begin continuous season on October 10, with same season length permitted Idaho under final Federal frameworks.

Daily bag and possession limits: Same as permitted Idaho under final Federal frameworks.

(3) *Other migratory game birds.*[16]

(i) *Coots and Common Moorhen (Gallinule).*

Season dates: Same as for ducks.

Daily bag and possession limits: Same as permitted Pacific Flyway States under final Federal frameworks.

(ii) *Common (Wilson's) Snipe.*[17]

Season dates: Same as for ducks.

Daily bag and possession limits: 8 daily. Possession Limit 16.

(4) *General conditions:* Nontribal hunters will comply with all basic Federal Migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his person a valid Migratory Bird Hunting and Conservation Stamp, or duck stamp, signed in ink across the face. Special regulations established by the Shoshone-Bannock Tribes also apply on the reservation.

(g) Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (tribal members only).

(1) *Ducks (including Mergansers)*[18]

Wisconsin zone.

Season dates: Begin September 19. End with Closure of State duck season.

Daily bag and possession limits: Same as permitted Wisconsin under final Federal frameworks.

Michigan zone. Same dates, season length, and daily bag and possession limits established by Michigan under final Federal frameworks.

Minnesota zone. Same dates, season length, and daily bag and possession limits as permitted in Wisconsin Zone under final Federal frameworks.

(2) *Special Scaup-only season*[19]

Wisconsin and Minnesota zones. Same dates, season length, and daily bag and possession limits permitted Wisconsin under final Federal frameworks.

Michigan zone. Same dates, season length, and daily bag and possession limits established by Michigan under final Federal frameworks.

(3) *Canada Geese*[20]

Wisconsin and Minnesota zones.

Season dates: September 19-October 31.

Daily bag and possession limits: 3 daily. Possession Limit 6.

Michigan zone.

Season dates: Same opening date and season length established by the State in the Michigan Zone under final Federal frameworks.

Daily bag and possession limits: 3 daily. Possession Limit 6.

(4) *Other Geese (Blue, Snow, and White-fronted Geese).*[21]

Wisconsin and Minnesota zones. Same dates, season length, and daily bag and possession limits permitted Wisconsin under final Federal framworks.

Michigan zone. Same dates, season length, and daily bag and possession limits permitted Michigan under final Federal frameworks.

(5) *Other migratory game birds*

(i) *Coots, Common Moorhens (Gallinule), and Purple Gallinules.*

Wisconsin and Minnesota zones.

Season dates: Begin September 19. End with closure of Wisconsin duck season.

Daily bag and possession limits: 15 daily, singly or in the aggregate. Possession limit 30.

Michigan zone. Same dates, season length, and daily bag and possession limits as established by Michigan under final Federal frameworks.

(ii) *Sora and Virginia Rails.*

Wisconsin and Minnesota zones.

Season dates: September 15 through November 19.

Daily bag and possession limits: 25 daily, singly or in the aggregate. Possession limit 25.

Michigan zone. Same date, season length, and daily bag and possession limits established by Michigan under final Federal frameworks.

(iii) *Common (Wilson's) Snipe.*

Wisconsin and Minnesota zones.

Season dates: September 15 through November 19.

Daily bag and possession limits: 8 daily. Possession limit 16.

Michigan zone. Same dates, season length, and daily bag and possession limits established by Michigan under final Federal frameworks.

(iv) *Woodcock.*

Wisconsin and Minnesota zones:

Season dates: September 15 through November 19.

Daily bag and possession limits: 5 daily. Possession limit 10.

Michigan zone.

Same dates, season length, and daily bag and possession limits established by Michigan under final Federal frameworks.

(6) *General conditions.*

(i) While hunting waterfowl, a tribal member must carry on his person a valid tribal waterfowl hunting permit.

(ii) Tribal members will comply with all basic Federal migratory bird hunting regulations. 50 CFR Part 20, and shooting hour regulations, 50 CFR Part 20, Subpart K.

(iii) Nontoxic shot will be required for all off-reservation hunting by tribal members of waterfowl coots, moorhens and gallinules.

(iv) Tribal members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

(v) *Wisconsin zone.*

Tribal members will comply with NR 10.09 (1)(a) (2) and (3), Wis. Adm. Code (shotshells), sec. NR 10.12 (1)(C), Wis. Adm. Code (shooting from structures), section NR 10.12 (1)(g), Wis. Adm. Code (decoys), and section 29.27 Wis. Stats. (duck blinds). Tribal members may hunt Canada geese at the Powell marsh from September 19 until a tribal quota of 25 Canada geese has been reached, at which time the Canada goose season will close. The season will reopen on September 25, or when daily censusing indicates that 300 Canada geese are in the area, whichever comes first. Thereafter, the tribal season will resume without a quota and with a daily bag limit of 3 Canada geese but will be closed from September 28–30. The season will reopen again on October 1 and end on October 31.

(vi) *Minnesota zone.* Tribal members will comply with M.S. 100.29, Subd. 18 (duck blinds and decoys).

(vii) Possession limits are applicable only to transportation and do not include birds which are cleaned, dressed, and at a member's primary residence. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of tribal members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. In Wisconsin, such tagging will comply with sec. NR 19.12, Wis. Adm. Code. All migratory birds which fall on reservation lands will not count as part of any off-reservation bag or possession limit.

Date: August 25, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–19886 Filed 8–27–87; 8:45 am]

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[16] See footnote (1) to paragraph (a)(1).

[17] See footnote (1) to paragraph (a)(1).

[18] See footnote (1) to paragraph (a)(1).

[19] See footnote (1) to paragraph (a)(1).

[20] See footnote (1) to paragraph (a)(1).

[21] See footnote (1) to paragraph (a)(1).

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